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ABSTRACT

Proceedings are presented of hearings before the Senate Committee on Appropriations on the abuse and mismanagement of the Comprehensive Employment and Training Programs and to determine if the Department of Health, Education and Welfare is making proper use of consultants. Among those testifying were Ray Marshall, Secretary of Labor, who discussed steps being taken to assure that the Comprehensive Employment and Training Act is administered honestly, efficiently, and effectively; Fredrick Bohen of the Department of Health, Education and Welfare, who described controls imposed to insure improved accuracy and accountability for expenditures on consultants; and Philip Bernstein, of the General Accounting Office, who discussed the National Cancer Institute's carcinogenesis programs. (LRA)

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COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS AND HEW CONSULTANTS—ABUSE AND MISMANAGEMENT

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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

Special Oversight Hearings

Department of Health, Education, and Welfare
Department of Labor
General Accounting Office

Printed for the use of the Committee on Appropriations

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS AND HEW CONSULTANTS—ABUSE AND MISMANAGEMENT

WEDNESDAY, MAY 9, 1979

U.S. SENATE,
SUBCOMMITTEE OF THE DEPARTMENTS OF LABOR AND HEALTH,
EDUCATION, AND WELFARE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:05 a.m. in room 1114, Everett McKinley Dirksen Office Building, Hon. Thomas F. Eagleton presiding.

Present: Senators Eagleton and Chiles.

DEPARTMENT OF LABOR

STATEMENT OF HON. RAY MARSHALL, SECRETARY

ACCOMPANIED BY:
- ERNEST GREEN, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
- MARJORIE F. KNOWLES, INSPECTOR GENERAL
- WILLIAM R. REISE, COMPTROLLER
- LAMOND GODWIN, ADMINISTRATOR, OFFICE OF NATIONAL PROGRAMS, EMPLOYMENT AND TRAINING ADMINISTRATION

BUDGET REQUEST

Senator EAGLETON. Good morning, ladies and gentlemen.

The Labor-HEW Approriation Subcommittee of the Committee on Appropriations is now in session to conduct a special oversight hearing on CETA—the Labor Department's complex of multibillion dollar employment and training programs.

This is to say, at least, a complex subject matter. So let me explain how I intend to proceed with this morning's hearing in order not to ramble all over the place, and in order not to intermingle some of the separate and disparate programs that fall under that rubric that we know by the name of CETA.

HEARING PROCEDURE

We will work basically off the chart to my left which has been reduced to typewriting. Do you have one of those? We have a lot of these if the press wants some of them.

We will, of course, start with Secretary Marshall's overview.

I will then inquire briefly of him about some newspaper articles, specifically a three-part series by John Berry and Art Pine that appeared in the Washington Post, dated April 24, 1979. I didn't have these xeroxed. I think I will.

We will have those xeroxed. I had a bunch of other xeroxing done this morning, but I forgot to have these xeroxed.

We will briefly go into those articles to sort of set the backdrop for the hearing, and we will then proceed to the Office of Investigation and Compliance in the Office of Inspector General, focusing on the general subject matter of waste, mismanagement—which falls under the Office of Investigation and Compliance, and then fraud, which falls under the Office of Inspector General.

Then we will go to the chart and we will go down the chart, starting with employment and training, the top category, into the various youth programs, YIEPP, YETP, YCCIP, YACC, SYEP, et cetera, and right down the chart, concluding with title VI. And that is the bottom line on the chart.

As we go into those various employment and training and youth programs, et cetera, we will make references to certain General Accounting Office reports. I just handed to Secretary Marshall some summary excerpts from some of these reports with the date of the GAO report.

We will not inquire into all of those, but for purposes of the exchange between Secretary Marshall and myself, I thought it was useful to reduce some of those to writing.

I guess it would help the press if they had some copies of those, too.

In addition to the specific references to GAO reports, there will be a second sheet of documents which are elaborations of some of the more compelling GAO reports, including two very recent ones, one dated May 8, 1979. It can't be more recent than that, Tidewater, Va. And we will go into that report and GAO findings, as well as a March 15 report of GAO, et cetera.

Those summaries, staff summaries of the GAO studies, have likewise been handed to Secretary Marshall.

Then during this morning's hearing, Senator Chiles will join us at some point. He specifically wants to inquire of matters in the Office of Investigation and Compliance and the Inspector General, as do I want to inquire into that.

And at the end of the morning—and hopefully we can do it all this morning—Senator Byrd from West Virginia will come and inquire into certain specific matters he is concerned about.

So I hope to finish my section of all this hopefully by 11:30, so as to then yield to Senator Byrd at that time.

We will see if we can come close to that mark.

Well, that is my explanation as to how we will attempt to proceed in order to focus on this thing both analytically and logically, and that will be the order as is reflected on that chart.

So let's start with you, Mr. Secretary. We welcome you and Mr. Green and your staff.

PREPARED STATEMENT

We have received your prepared statement and, without objection, it will appear at this point in the record.

[The statement follows:]

STATEMENT OF RAY MARSHALL

Mr. Chairman and Members of the Subcommittee:

I am here today to discuss with you the steps we are taking to assure that the Comprehensive Employment and Training Act (CETA) is administered honestly, efficiently, and effectively.

I want to stress that I believe that CETA is a fundamentally sound program that has generally been well run. I, more than anyone, know that CETA has some problems. I have seen the headlines and read the reports. And I have taken steps to remedy the situation. We have focused considerable attention, as will be discussed later, on improving system management and fighting fraud and abuse.

The criticisms should not distract attention from CETA's positive record of bringing needed jobs and training to millions of Americans. CETA is a large program; we will spend about $10 billion in fiscal year 1979. It is a complex program. And, it is a decentralized program.

CETA's size, complexity and decentralized nature have produced some administrative difficulties. But the structure of CETA is not an excuse for tolerating fraud and mismanagement. We are taking steps to solve these problems.

We intend to be zealous in our efforts to eliminate fraud and program abuse. We are working closely with the prime sponsors to reduce the chance of mismanagement. I can assure you we can, and will, make the system work better.

What I would like to do today is to briefly discuss the nature of the CETA system and then explain the ways we are working to improve the administration of that system, including changes in our audit procedures. I think we are well on our way to making the CETA fraud headlines a thing of the past.

We have already taken significant steps toward this goal. The new law -- the recently amended CETA -- gives us increased powers against fraud, abuse and mismanagement. The final regulations for implementing that law have recently been published, and implementation of new management initiatives has been, or are about to be, put in place. Even before the new CETA law was enacted, I had created an Office of Special Investigations, now expanded to be the Office of the Inspector General, to focus on fraud and abuse in CETA and other Department programs. I continue to place the highest priority on ferreting out fraud and abuse. We believe that these steps will have a positive result on program operations, but, as you know, the CETA system is complex and takes time to react to Federal initiatives.

CETA is largely a decentralized system in which units of local and State governments apply to be program operators for particular geographic areas; these deliverers are known as "prime sponsors." Grants are given to these approximately 460 prime sponsors, who, in turn, are responsible for designing and implementing CETA programs in their local jurisdictions within the boundaries established by the statute. The prime sponsors can determine the mix of activities and the appropriate providers of services. There are approximately 50,000 deliverers of CETA services, and we estimate that there will be 4.5 million participants in fiscal year 1979.

In order for the program to work, there must be cooperation between the national administrators and the local administrators. Accountability must work in both directions. National administrators must be sensitive to local needs and problems, but local administrators must recognize the need of the Labor Department for a flow of information that permits us to evaluate program success and correct program failures. Only by working together can the system be made to function effectively.

The needs of the system for information and direction have changed over the last several years. The prime sponsor today is administering a CETA program that has expanded significantly in size and scope. Just since 1977, spending for Department of Labor employment and training programs has increased by 70 percent. Total enrollments have increased from about 2.4 million in 1975 to about 4.2 million in 1978, almost half as a result of the increase in public service jobs. This great increase in public service jobs was a major part of our effort to deal with the high levels of unemployment faced by this Administration when we took office.

The emphasis of the CETA programs has also been refocused in the last two years. In 1977, Congress added four new youth programs to CETA; in fiscal year 1978, these new programs and other CETA programs served over 2.3 million youth under age 22. In 1978, the CETA Amendments were passed emphasizing the focusing of programs on the economically disadvantaged, with tighter restrictions on eligibility and wages. The CETA Amendments also called for increased coordination between the private sector and the public sector through a new Private Sector Initiative program.

The system on the whole has reacted well to these changes. While there are headlines about fraud, abuse, and mismanagement, I believe, as I have stated in the past, that these kinds of headlines obscure the real good that CETA accomplishes. Most of the difficulties that arise in CETA programs are not the result of someone deliberately violating the law, but arise from a lack of knowledge of the system's requirements or lack of management ability.

We believe that we now have the powers we need to deal with both deliberate and non-deliberate violations. The amended CETA establishes new investigatory powers, and new criminal penalties for willfully and knowingly hiring ineligibles or obstructing CETA investigations. The new regulations strengthen requirements for prime sponsors' recordkeeping systems, and strengthen requirements for prime sponsor monitoring and auditing of subrecipients. The new regulations also strengthen the rules governing such areas of abuse as nepotism, conflicts of interest, political patronage, inadequate records, lobbying, the improper commingling of funds, and the charging of a fee to place a participant in a CETA program.

To deal with mismanagement, which is generally caused from inexperience or oversight, the Department is creating, pursuant to the statutory requirements, a new Office of Management Assistance, which will offer technical assistance to prime sponsors. We are also improving our ability to detect difficulties by developing a new management information system and through Questionable Activity and Incident reports to top management. In addition, the CETA Amendments require new accounting and financial reporting, eligibility verification, and bonding.

We are confident that these changes will enable CETA to be a more efficient and effective program that "works" for the disadvantaged, and at the same time does not waste taxpayer dollars.

The new CETA makes two changes that I believe are especially important in assuring that the groups with which the prime sponsors contract are responsible. First, the prime sponsor may only contract with those subrecipients who submit "meritorious" written plans. Second, the Department is given specific authority to proceed directly against the subgrantee or contractor to recover funds when the prime sponsor fails to take appropriate action.

To address a related problem I have initiated a Fraud and Abuse Prevention Survey (FAPS). The purpose of a FAP survey is to determine if the opportunity for fraud, abuse or other criminal activity is present in the Department's programs. It is an attempt to deal with problems in the system rather than reacting to individual problems. We believe FAPS will make it easier to avoid problems before they occur. Under FAPS, three person teams (an investigator, auditor and program analyst) will examine grantees, monitor their management systems, and look for administrative weaknesses in the program. After a review of the survey findings, if necessary, the grantees will be directed to change their administrative procedures. Follow-up surveys will be made in every case. The surveys are designed to be a management tool, searching for conditions that make fraud possible. FAP surveys will be made public.

We do not have the resources to conduct a FAP survey for every grant we give. But I believe that FAPS will have an important deterrent effect on the entire system. It will focus the attention of managers on the importance of prevention. It will help the Department better understand how regulations and procedures are interpreted in the field. And, hopefully, it will save the taxpayers of this country money.

Finally, we believe that the new Office of the Inspector General, which reports directly to me, will make a major contribution to the detection and prevention of abuses. The Department has consolidated many of the investigatory and audit activities of its various programs into this newly established office. During the current year, while simultaneously maintaining an on-going investigatory and audit program, we will be integrating the new staff, establishing priorities and program directions, delineating relationships between the central investigatory office and related program offices in the agencies. The budget for the Inspector General's office is requested to be $17.4 million in FY 1980, which is a $3 million increase over the FY 79 level.

The responsibilities of the Office of the Inspector General will be coordinated with the technical assistance, monitoring and evaluation activities conducted by the program offices of the Department. These activities will assure that our programs are meeting their objectives, serving those who need help, and being managed effectively and efficiently.

It is my objective to use the statutory and administrative tools now in hand to complete a properly functioning management audit system which delivers services, prevents abuse, and remedies error. Although our problems can be most clearly seen in CETA because of its complexity, these principles are to be applied among all Departmental agencies.

I want to summarize briefly how our auditing system works with CETA. To support this extensively decentralized grants management system, we have adopted an integrated audit system employing resources available in the Department, the private sector, and among State and local governments. Using audit guides developed in the Department from the Act and Regulations, CETA prime sponsors are responsible for auditing their subrecipients, and the Department is responsible for auditing the prime sponsors, including review of the sponsor's audit activity.

Upon completion of our audits, draft reports are sent to the sponsor and the program office with an invitation to submit written comments within 30 days. This period permits the sponsor to present new information which may answer questioned costs in the draft. The auditor evaluates that information for possible revision of the report and publishes the replies with the final report.

The program office is to respond within 60 days of issuance of the final report on all reported deficiences. This response is the vehicle for establishing findings and determinations on the auditor's recommendations and is the basis for establishing debts for recovery. But it is clear that the auditor's proper role is advisory to the manager who must then make determinations within the law and see that appropriate actions are carried out.

It is at this determining point that we have seen our problems develop most fully. In the past, varied interpretations of applicable regulation and authority between auditors and managers have been a cause of unresolved issues, as have inadequate tracking systems and collection controls.

On November 6, 1978, I established a Department Audit Review committee of policy level representatives of our various agencies, including the Inspector General. This committee is charged with conducting a comprehensive review of current procedures, compliance, quality controls, interagency relations, and actions taken. Consultations are taking place with a variety of people including representatives from our regional and national offices, the GAO, and public interest groups. The committee is in the midst of its work, but will be submitting its report and recommendations to me shortly.

I am anticipating that the committee will suggest specific actions for my consideration.

The first issue to be addressed is our backlog of unresolved audits. This must be reduced rapidly.

A major step forward in the total CETA monitoring and auditing system is being made with the establishment of Independent Monitoring Units in each of our more than 450 prime sponsors. The monitoring and auditing performed by Federal staff is only a part of the total monitoring and auditing that will occur in the new CETA. In addition to our own independent Federal monitoring and auditing, a major Federal role will be to monitor the work done by the prime sponsor.

Another initiative which our Inspector General has undertaken should also insure that prime sponsors keep full, up to date and readily available records. In the past when auditors went to a prime sponsor and found records incomplete or unavailable they entered these in their reports as "questioned costs". If at a later date these records were found when the audit report was reviewed by a program manager, then the program manager would allow the costs.

There were several problems with this. First it meant that any records which were not available were not audited. Second such a procedure provided the potential for abuse through the introduction of doctored records. Third, it seriously inflated the amount of money which appears to be improperly spent or administered.

Under the new procedure when the auditor finds records to be unavailable, the grantee immediately receives written notification formally advising that it has a certain date in which to produce the records. If records are not produced in the stated amount of time, during the period of the on-site audit, they are listed as "questioned costs".

I should explain at this point that costs questioned by auditors are not necessarily unallowable expenditures. As the name implies, "questioned costs" are simply costs incurred by our grantees that the auditors have some questions about. Some of those questions have very legitimate answers; others, unfortunately, do represent the improper expenditure of funds which we are all concerned about.

The CETA system works. It has served the needs of the Nation in times of great stress, and is one of our main instruments to achieve the goals of the Humphrey-Hawkins bill.

Admittedly, the system has flaws. We have worked very hard since we took office to eliminate these flaws, while at the same time expanding the program to meet the Nation's needs. With the powers provided the Department under the new CETA, we will be able to continue even more strongly our efforts to improve CETA.

The new CETA, I can assure you, will be one of which we all can be proud.

I would be glad to answer any questions you may have.

INTRODUCTION OF ASSOCIATES

Senator EAGLETON. Will you please introduce or identify your colleagues for the record, then you may proceed.

Secretary MARSHALL. Thank you, Mr. Chairman.

I am pleased to be here to discuss the CETA program with you.

Accompanying me today on my far right is Mr. William Reise who is the Comptroller of the Department of Labor; Ernest Green, Assistant Secretary for Employment and Training; and to my left, Ms. Marjorie Knowles, who is the Inspector General-designate of the Department.

Mr. Chairman, with your permission I would like to summarize. I have submitted my prepared statement to you, but I would like to simply summarize it in order to leave as much time as possible for questions.

Senator EAGLETON. Yes; go ahead, please.

SUMMARIZATION OF STATEMENT

Secretary MARSHALL. The first point that I think is necessary to emphasize is that the CETA system is a valuable and fundamentally sound program. It has done a lot to reduce unemployment in this country and to improve the income and employability of workers.

One of the things which we have demonstrated over the years is that we will not be able to achieve full employment and reduce unemployment in the country without an effective employment training system.

I am equally convinced that we will not be able to reduce inflationary pressures that originate in the labor market unless we have effective employment training activity.

There has been a lot of evaluation of employment training programs and the CETA system. It has probably been evaluated more than any other social program that I know of. There are reams of evaluations, and they all generally support those two conclusions. Unemployment is lower than it would be if you didn't have the system.

I am convinced in my mind that unemployment would be at least 1 percentage point higher if we didn't have our employment training activities.

I am also convinced, and all studies indicate this, that while there is considerable variation in the program, that for the most part the incomes and employability of participants of the CETA system have been improved as a result of the system.

It is, however, a complicated system, as the chart that you have before you indicates. There are over 50,000 deliverers of CETA services and they serve 4.5 million people.

Senator EAGLETON. Did you say 50,000?

Secretary MARSHALL. 50,000 deliverers of CETA services, and in fiscal 1979 they served about 4.5 million participants.

DECENTRALIZED SYSTEM

As you know, it is a decentralized system. That is, the decision was made when CETA was adopted that the main deliverers of CETA services would be the prime sponsors at the local level. That is mainly State and local officials who are responsible for the basic operations of the system.

It is a system where—it is a division of labor between the Federal Government mainly in the form of the Department of Labor and the some 460 CETA prime sponsors who then subcontract with a large number of deliverers of CETA services.

The basic idea underlying CETA is in contrast with the Manpower, Development Training Act which preceded it, that manpower and training programs or employment training programs should not be run from Washington, but that the program responsibility should, to the extent possible, be at the local level.

The thinking is that local prime sponsors could fashion employment and training programs to fit the needs of local labor markets.

By and large, most people who have studied the system agree with that thrust.

GROWTH OF THE SYSTEM

I think it is also important to emphasize that beginning in 1977 there has been a very large increase in this complicated system. The size of the system has been increased by about 70 percent since 1977. In 1975 there were about 2.4 million participants in the system as contrasted with 4.5 million in fiscal year 1979.

All of this indicates something of the complexity and the rate of change in the system.

Let me focus attention, however, on some of the things that have happened in the last 2 years, and particularly with CETA Amendments of 1978, to change the fundamental focus of CETA.

NEW EMPHASES

One of these changed emphases is on youth programs. We adopted the Youth Program Demonstration Projects Act of 1977. That act in fiscal 1978 served about 2.5 million young people.

A second focus in the CETA Reauthorization Act of 1978 is to concentrate the program primarily on the disadvantaged.

Prior to the act, the CETA system primarily served the unemployed.

Beginning with the CETA reauthorization, the emphasis is on the disadvantaged who are also unemployed. So no longer is unemployment alone sufficient a criterion for eligibility in CETA system.

A third emphasis is to give greater attention to the private sector, and particularly to try to improve the relationship between the private sector and the public employment training system. We are convinced that this is absolutely essential to perfecting employment training systems.

We believe that public training systems alone would not be adequate to meet the employment training needs of the country, and that we will not solve the unemployment problem simply by having people involved in public training activities.

The main components of that private sector program are the private sector initiative to establish private industry councils in each major or local area and a tax credit. You give tax credit to employers who hire and train eligible participants.

A fourth emphasis, Mr. Chairman, is to do everything we can to strengthen the management of the system. We were not able to pay as much attention to management during the first year of the CETA system as we would like to have, partly because we were preoccupied with more than doubling the size of the public service employment components in order to deal with the very high rates of unemployment that existed when we came into office.

Now that unemployment has been reduced from about 8 percent to under 6 percent, we believe that we can not only concentrate more of our attention on the structural unemployment problem, but we can also improve the management of the system. These things are very high priority for us.

IMPROVED MANAGEMENT

A number of things have been done to strengthen the management of the CETA system.

One of the first things we did was create the Office of Special Investigations in order to investigate fraud and abuse in the system. That office has been turned into the Office of the Inspector General.

Now, we view the Office of Inspector General as we did the Office of Special Investigations, as a part of our overall management system. We believe that the best way to prevent fraud and abuse in the system is to improve the management.

We have also created, as required by legislation, an Office of Management Assistance to help the system improve management throughout. We have established the new accountability, eligibility, verification, and bonding requirements in order to deal with management and the problems of fraud and abuse.

Some changes were made to strengthen our ability to deal with the subcontractors in the CETA system. We now have requirements that the subcontractors submit written plans to the prime sponsors for their funding requirements and program requirements.

We have the authority to proceed directly against the subcontractors, in addition to going through the CETA prime sponsors themselves. We believe that the best way to deal with the problem of fraud and abuse, in addition to strengthening management, is to develop preventive systems; that is, to try to see that the opportunities for fraud and abuse are eliminated by better administrative and management procedures at the prime sponsors level and below.

One mechanism that we developed to accomplish that was the FAPS system, which consists of a team of investigators who investigate and attempt to strengthen the administrative procedures, because what we find is that many times the reasons for the problems in a local community or in a local private sponsor are inadequate administrative procedures.

We have also done some things to strengthen our auditing procedures that have been clarified in the CETA reauthorization. The prime contractors now have primary responsibility for auditing the subcontractors and our main responsibility is to audit the primes. And one of the factors audited is the auditing system that the primes themselves have with the subcontractors.

In November of 1978 I created within the Department an audit review committee to examine our auditing procedures and make recommendations to me for ways to improve those.

So in conclusion, Mr. Chairman, the CETA system is a complex system. It is a very valuable system that has done a lot to improve the employability and earnings of American workers and to reduce unemployment. The complexity makes it difficult to manage, but we believe that the complexity of the system should not be used as an excuse not to prevent fraud and abuse. To improve the management system is one of our main objectives at the present time.

That concludes my summary, Mr. Chairman.

Senator EAGLETON. Thank you, Mr. Marshall.

Because Senator Chiles is here, we will now deviate from the schedule I just announced. We will skip the newspaer articles for a moment and move directly to the question of waste, mismanagement, fraud, and internal controls within the Department to avoid those three evils: waste, mismanagement, and fraud.

OFFICE OF INVESTIGATION AND COMPLIANCE

As I heard your summary statement and as I read your complete statement last night, I have heard no mention in either your summary nor did I find it in the prepared statement any reference to the Office of Investigation and Compliance.

Was it in the prepared statement?

Why is it—I'll start with that question—why is it when you were commenting on better controls, better administration, better supervision, better investigation, why is it that you made no reference whatsoever to the Office of Investigation and Compliance?

Secretary **Marshall**. What I tried to do, Mr. Chairman, was to emphasize new procedures that we have developed since we last talked with the committee. The Office of Investigation and Compliance is an ongoing agency within the Employment and Training Administration. I will be glad to talk about that, but it is not one of the things that we have just recently opened.

Senator **Eagleton**. Well, let's start off, if you will, with that Office.

First of all, what is it designed to do? What is the budget for that Office this fiscal year; what requests did you make of OMB; and what was allowed by OMB and President Carter in the budget submission?

First of all, then, what is that Office supposed to do or what does it attempt to do?

Secretary **Marshall**. Mr. Chairman, I will ask Mr. Green and his assistant to respond to that in detail.

Mr. **Green**. Mr. Chairman, the Office of Investigation and Compliance is a section of Employment and Training Administration. It has a responsibility of working with our regional and national components and identifying through its incidents reporting system problems that the local primes and the subgrantees may have.

The Office had in the 1978 budget a staffing level of 66 individuals and the amount was $2 million. The 1979 staffing was 52 positions, the amount was $1.985 million. And for the 1980 budget, it was 52 positions, $1.893 million.

That reflects that nine of those positions were people that were transferred to the Office of Inspector General, and five were removed to cover the cost of a pay raise absorption that the Department had to assume.

Senator **Eagleton**. Now, as I understand it, the Office of Investigation and Compliance's primary role is to investigate the misapplication of CETA funds, mismanagement, and other abuses within the program, sort of fraud.

And if they in their investigations get into an area that appears to be fraudulent, they then turn that information over to what is now called the Office of Inspector General. It used to be called the Office of Special Investigation. And then the Inspector General carries on from there.

Is that a fair ballpark summary?

Mr. **Green**. We share with the Inspector General all of the incidences that are reported, and then make the determination whether the Office of Compliance will continue the investigation or we turn it over to the Inspector General.

Senator **Eagleton**. OK.

FUNDING FOR THE OFFICE OF INSPECTOR GENERAL

Let's also have this at this time and put into the record the same budgetary request with respect to the Office of Inspector General.

What was the budget for that—it used to be called Office of Special Investigation—what is the budget for that in the current fiscal year that we are operating in? What did you ask of OMB and what did OMB and the President allow in their budget submission?

Secretary MARSHALL. Mr. Chairman, I will ask Mr. Green.

Mr. GREEN. The budget, Mr. Chairman, was for 212 positions and the amount was $8.092 million. In 1979, estimated positions were 355; the amount was $14.414 million.

Senator EAGLETON. In the current fiscal year the allowed manpower is 212?

Mr. GREEN. Yes.

Senator EAGLETON. At $8 million something?

Secretary MARSHALL. I'll let Ms. Knowles respond to that.

Ms. KNOWLES. If the question was in the current fiscal year, it is 355.

Senator EAGLETON. Where did I get 212?

Ms. KNOWLES. That was for fiscal year 1978.

Senator EAGLETON. 355, and the price tag of—give me a round figure.

Ms. KNOWLES. $14 million.

Senator EAGLETON. What did you ask of OMB?

Ms. KNOWLES. Sir, I'm the Inspector General-designate; I wasn't present.

Mr. REISE. We will have to provide that for the record, Mr. Chairman.

Senator EAGLETON. You have these records and you don't know what you asked of OMB?

Mr. REISE. I am not absolutely certain, sir.

Senator EAGLETON. What did President Carter allow, both slotwise and dollarwise?

Mr. REISE. 355 is what the President's budget allowed for it.

Senator EAGLETON. OK. The same number of slots. And what's the dollar—increased dollar amount because of inflation?

Senator CHILES. Mr. Chairman, I think 90 of those positions are for the organized crime strike force, and so they can't be used for CETA.

Secretary MARSHALL. The responsibility of the Office of Inspector General is not just for CETA.

Senator EAGLETON. Well, the Office of Inspector General is for the whole Labor Department.

Secretary MARSHALL. That's right.

Senator EAGLETON. And this is the biggest hunk of programs within the operational programs within the Department, is that correct?

Secretary MARSHALL. That's correct.

Senator EAGLETON. But there are other programs within the Department and the IG is over the whole bit. But as Senator Chiles points out—is he correct in his observation that 90 of these 355 are on assignment or detached? I don't know what the technical word is for the program.

Secretary MARSHALL. Organized crime.

Ms. KNOWLES. That is correct.

Senator EAGLETON. So if you split out the 90, that leaves 265 remaining to do what the Inspector General orders done with the remainder of the Inspector General's work within the Department?

Ms. KNOWLES. That is correct.

Senator EAGLETON. OK.

OFFICE OF INVESTIGATION AND COMPLIANCE

Now, when, in your submission to the Congress, the Department says as follows. You requested an additional 37 positions in the Office of Investigation and Compliance. That's the one that has only 52 employees. And you wrote, "The reduction in the Office of Investigation and Compliance will materially reduce O.I. & C. capability for investigating those program abuses not normally addressed by the Inspector General. Specifically, these are ineligible employees, misapplication of funds and gross mismanagement."

That's what the Department said. It said it needed 37 additional positions for this Office. Is that correct?

Mr. GREEN. Yes, sir; but the 37 positions are for the Inspector General's Office.

Senator EAGLETON. Well, neither Senator Chiles nor myself nor any member of the committee, or the Senate, for that matter, is attempting to create a huge bureaucracy. None of us are in the business of trying to foist unneeded employees on the Department.

But it appears to me that in a program—I'm talking about CETA as a whole, which is now about $20 billion a year—in a program that has been as widely criticized and commented upon by the General Accounting Office, reflected by all these reports up here on this round—or circular thing, some of them going back 3 and 4 years, 5 years, some of them very current—just a few days old, one of them—and many in the year 1979.

These are various GAO reports commenting on and, in practically every instance, criticizing the administration of that long list of CETA programs.

To have 52 people giving their attention to waste, abuse, mismanagement, and misaplication of funds seems to me very, very shortsighted, with a program that has been as rife with difficulties and problems as this program has been for the last several years.

Secretary MARSHALL. Let me respond to that, if I may.

MAGNITUDE OF FRAUD AND ABUSE

I think, in the first place, it is very easy, because of newspaper articles or GAO reports, to get a mistaken view of the extent of fraud and abuse in the CETA system, since it is such a disseminated system and reaches all parts of the country.

And there will be instances of fraud and abuse, but according to our audits—and we have reviewed in the history of this program, which is only about 5 years old—there have been disallowed costs which represent one-half of 1 percent of the total CETA expenditures. And that's too high. We want to get that back.

It does not mean fraud and abuse. The degree of seriousness in that one-half of 1 percent of $22.8 billion that has been spent in the program. This means that people might have been ineligible, that someone might have been not old enough or too old for the program, or hadn't been unemployed long enough by a week, or we couldn't find the record, or for whatever reasons.

So that, while we don't know the exact magnitude of fraud and abuse in the program, I think that it's easy to exaggerate.

MONITORING CAPABILITIES

The second point I would like to make is that the resources available to us to monitor and manage the system are far beyond the people who are available in the Office of Inspector General and O.I. & C. There are monitoring the system, over 5,000 people throughout the system. Since it is a decentralized system, it is very difficult to monitor, and it was not intended to be managed from Washington.

And I think you need to look at the total monitoring system, which we would be happy to put in the record. There are a number of people involved in that whole system in order to get a proper perspective on the extent to which we can do the job with the people available. And I think it is also important to point out that the whole law enforcement system in the country is available to the Office of Inspector General, as they work very carefully with the FBI and with State and local law enforcement officials—in criminal activity.

So that I think you're only hitting the tip of the iceberg if you concentrate on these instrumentalities within the Department of Labor.

[The information follows:]

CETA monitoring and auditing system

Federal national office staff	34
Auditors, Inspector General's Office	12
Investigators, Inspector General's Office	7
Reviewers, Office of Investigation and Compliance	15
Federal regional office staff	458
Equal employment and compliance staff	17
Auditors, Inspector General's Office	58
Investigators, Inspector General's Office	18
Federal representatives	365
Independent monitoring units staff	+5,000
Grand total	5,492

STAFF RESOURCES

Senator EAGLETON. Well, I can accept that answer in part, Mr. Secretary. I know this is a decentralized program as you mentioned, and it was consciously set up to be a decentralized program. We are not suggesting that we change the basic underlying structure of the program. But it appears to me that, with a $10 billion series of programs—and that's the topic of one of the summary sheets when we get into the Tidewater situation with some 44 various job programs functioning—with a series of programs that are as complex as some of these are, dealing with as many dollars as are reflected on the chart, dealing with 400 and some-odd prime sponsors and 50,000—I think your testimony was—deliverers, and dealing with 4½ million individuals, I think you said, to have 52 people trying to monitor waste, abuse, and mismanagement seems to me to be very shortsighted.

I am chairman of the Agricultural Appropriations Subcommittee. Though I don't have the figure right before me or in my head, my belief is that the Department of Agriculture, with not as many programs to administer—they have one big one, food stamps—by no means the wide range and complexity of programs that you have at the Department of Labor, has considerably more manpower, considerably larger manpower assigned to waste, mismanagement, and abuse than do you. And I will put it in the record at a later time when I find what the figures are.

This subcommittee also considers the HEW appropriations. Now, their budget is obviously bigger than the Department of Labor budget. But they too have a much larger personnel. But in comparison with the Department of Agriculture, it is irrelevant, because the programs in that Department are by no means as complex and diffuse as in the Department of Labor.

I wish that you, Ms. Knowles—I know you're Acting Inspector General and very shortly, we hope, will be in fact the Inspector General—I would hope that you would take a very hard look in the next few weeks at the whole internal structure of the Department of Labor insofar as waste, fraud, and abuse is concerned.

And if you feel that you are not getting the kind of manpower and trained personnel that you need to perform your duties, I would hope that you and the Secretary would report to me. Of course you have to clear it with OMB and the President first. But I just don't see frankly—I'm an old prosecutor—I don't see how 52 investigators can do it. The simplest prosecutor's office has probably pretty close to that number of investigators for just 1 city of 500,000 people.

Secretary MARSHALL. We don't believe that 52 can do it, Mr. Chairman. That is the reason we are high on this whole system which has over 5,000 people in it.

Senator EAGLETON. I'm going to yield back to Senator Chiles.

Of these 52 people, only 39 of them are investigators. So the number dwindles down to a precious few.

Senator CHILES. Maybe if I could just throw in some of my questions and then we could get a response from that.

Senator EAGLETON. Yes.

Senator CHILES. Thank you, Mr. Chairman.

WEAKNESSES WITHIN THE SYSTEM

Mr. Secretary, I know you are committed to straightening out CETA and making it run right. I'm not convinced that presently the Department of Labor has either the organizational structure or the staffing to monitor and prevent fraud.

Now I had my staff prepare a chart which I think shows up some of these weaknesses. First, the Office of Inspector General is limited to criminal fraud. Investigation of program abuse is held within the Employment and Training Administration, which puts out the grants.

Second, the number of investigators in Employment and Training offices, Office of Investigation and Compliance, are 39, totally out of scale to the size of the program. We have been discussing that.

The third is the total number of auditors and investigators in the Department seems inadequate to cope with a program like CETA, which spends almost $11 billion a year, in every city and county. And the same people we show in this chart also have to monitor the huge unemployment insurance and workman's compensation programs, and they are not without their problems.

The data provided by the Department to our staff shows that of the 3,000 current staff, 1,027 are assigned to comprehensive employment development. Six hundred and eleven of these, about two-thirds, are professionals. So that tells me that 600 professional field staff have to monitor 470 prime sponsors, who in turn operate through thousands of subcontractors.

Now, I understand that the ETA estimates a range of 50,000 to 70,000 total worksites. That works out to an average of about 100 worksites per staff, including all of the contract management and administrative professionals. The day-to-day dealing with the prime sponsors, including approving of their annual plan and their grant applications for all programs in CETA, is handled by about 300 Federal representatives.

It seems to me—and Mr. Green, perhaps you can answer that better than the Secretary—wouldn't you say that it is fair to say that 300 Federal representatives, who are already stretched too thin, can't possibly investigate a large proportion of the 50,000 to 70,000 worksites to see whether work is actually being done?

Mr. GREEN. One of the important things, Senator, that Congress did in the reauthorization of CETA was to create independent monitoring units in each prime sponsor. And that provides, for the first time, 5,000 additional people throughout the system who are required by the statute to be independent of the other portions of the local prime sponsors' organization on monitoring. So I would say that the Federal staff, plus these 5,000 additional individuals, provide continuous oversight of the CETA program and operations.

Senator CHILES. Well, aren't a large number of those prime sponsors actually local governments? You are asking them to monitor themselves.

Mr. GREEN. No, sir. You know that the legislation this year did do a number of things differently. It requires that records be kept. It also requires random inspection of certification procedures.

So I think that we are looking at a very different process than we had previously.

ROLE OF INSPECTOR GENERAL

Senator CHILES. Well, I am also concerned about limiting the role of the Inspector General to criminal fraud, since so much of the trouble with CETA is program abuse. I don't think it makes sense to leave abuses like nepotism and political patronage to the regular program staff.

What do you think it would take in numbers of auditors and numbers of inspectors to cover all of CETA programs?

Ms. KNOWLES. Before I answer that, could we go back to the limitation of criminal fraud? We don't see it that way and I don't think the Secretary does, either.

The Secretary has promulgated a memorandum concerning the use of incident reports that will be filed whenever there is a problem of fraud, waste or mismanagement perceived in the field. All of those will come to the Office of Inspector General and we will make decisions as to local investigation. If we think it is appropriate for our own personnel, we will turn it over to them.

Senator CHILES. Now, that is just responding to complaint?

Ms. KNOWLES. Yes, sir. I will get to the next stage. I think you and I agree that totally reactive investigation work is not the way to go. We are going to try to do some proactive investigation work. Those include FAPS, fraud and abuse prevention surveys, and better planning of our investigation schedule so the numbers of investigators and auditors available to us are larger than the 55 that are available in ETA.

We have had this year two FAPS done already and we hope to have a lot more done during this fiscal year.

Now, with respect to number, we can also use more. We presently have 55 fraud investigators on board, in addition to the 90 slots for organized crime. Our budget request for 1980 is for 37 additional fraud investigators.

Senator CHILES. Well, let me get this straight, then.

Is the organizational structure now changed to clearly show that, as the Inspector General, you have the right to look at the entire CETA program, not just criminal fraud?

Ms. KNOWLES. I can't speak as to whether that is reflected in the Department manual, but that is my understanding and I believe that's Secretary Marshall's understanding and Mr. Green's understanding as well.

We will make the decision as to who will do the reactive investigation. We will also work with ETA to make sure that our proactive work is not duplicative. But we will make those judgments.

REPORTING REQUIREMENTS

Senator EAGLETON. Let me clarify something. Does this mean to the Office of Investigation and Compliance? Instead of reporting to Assistant Secretary Green, will he in essence report to you?

Ms. KNOWLES. No, sir. It remains reporting to Mr. Green.

Senator EAGLETON. Well, why not report to you? I had something to do with writing the Inspector General bill. And quite to the contrary—I think you quoted almost verbatim that the IG is to go into waste, mismanagement, and ripoffs—not associated with criminal fraud, and that is what the law says you are supposed to do. And you say that is what you intend to do.

But the Office of Investigation and Compliance is the waste, management arm of the Department of Labor. Why shouldn't they report to you and be under you?

Ms. KNOWLES. Mr. Chairman, at the present time it's my intention to work out with the Office of Investigations and Compliance some reasonable division of function. We don't think that any of these organizational charts are written, and we'll be glad to look at the issue.

There is an appropriate role for program compliance officers within CETA. They have a knowledge of the program and a knowledge of the people, and we hope to work with them.

Senator CHILES. Well, I think the chairman raises a very, very valid point. If you and the Department agree that your role gives you the right to look in all of these areas, not only criminal fraud but mismanagement, that's all well and good, and that seems to comply with the statute. On the other hand, if there are personnel down there in the fraud and abuse section or down in the other section, and they're not reporting to you, then in fact you don't have that capability, because with only the 39 investigators—you are not going to be able to cover that kind of waterfront.

So you sit there and say you have the authority, but you don't have the ability.

Ms. KNOWLES. We hope that in fiscal year 1980 we will have more ability, Mr. Chairman, but I think it is an issue we should look at very seriously. And if I am confirmed, I hope to look at that.

FRAUD PREVENTION SYSTEMS

Senator CHILES. Well, looking at the prevention system against fraud, I understand that some experimental work in fraud and abuse has been done.

How many preventive surveys have you completed?

Ms. KNOWLES. We have done two already.

Senator CHILES. How many could you do with the staffing in the President's budget?

Ms. KNOWLES. In fiscal year 1979, sir? We might be able to accomplish four more before the end of this fiscal year.

Senator CHILES. How many do we need?

Ms. KNOWLES. We need a great many. We could use at least 20 per year. We would like, for fiscal year 1980, to accomplish at least 20. We estimate that that would take perhaps 8 staff years out of the investigative force, including aproximately four additional investigators and four program analysts.

I should explain that a FAPS team is made up of an investigator, a program analyst, and an audit expert. So it will take staff from both those offices, audit and investigations, to accomplish a FAPS.

Senator CHILES. As you know, Mr. Chairman, one of the things we were provisioning in the bills was to try to do some preventive measure and not just to try to catch everybody after the problem. And again, it is apparent that the manpower is too thin to really go in and do those kinds of jobs in the way they should be done.

Senator EAGLETON. Right.

With credit to Mrs. Knowles, who is only in the acting capacity, she too underscores the need for preventive activity and has so testified.

EVALUATION OF INVESTIGATIVE TECHNIQUES

Ms. KNOWLES. Senator Chiles, if I may, there is one other thing we would like to do along these lines that I think is very important. We would like the capability within our investigating and audit staffs to do planning on a year-long audit work plan, and to do evaluation of investigative techniques so we can determine what is the most effective. I think we just don't know at this stage.

I would hope—I would put a staff of five on full time, because unless someone is full time they are apt to be diverted into reactive crisis situations.

Senator CHILES. I am sure that would be true.

Suppose you wanted to cover all the prime sponsors in 3 years. How much staff would that take and how fast could you phase in a total fraud prevention in all areas?

Ms. KNOWLES. I am informed that we do not cover something like 60 prime sponsors per year. It is our goal to reach the statutory and regulatory requirement of thoroughly auditing the prime sponsors every 2 years. And I am told we miss 60 a year.

Now we are hoping to introduce a concept of the unified audit program, at least within the 17 most complex prime sponsors. We estimate to do that we will have to introduce another concept called resident auditing, and we would need three residents in those. That means something like 51 staff positions would have to be devoted to assuring that we can audit the additional 60 prime sponsors who we are not auditing. Through the resident concept we would have 17 of them. That would leave 43 to be audited under the traditional way, to the tune of $2.5 million in addition. That would insure that we had complete coverage of the CETA program sponsor audit universe every 2 years.

Senator CHILES. How many of the prime sponsors and subcontractors do you plan on being able to fully audit in fiscal year 1980?

Ms. KNOWLES. I don't have the complete number, but I can tell you that, of the primes, our present ability indicates that we cannot audit 60 of the primes that we are supposed to audit. We should be auditing 230 prime—if you subtract 60 from that, I think you get 170.

ADDITIONAL STAFF

Senator CHILES. If we wanted to move ahead at full speed on auditing, how much additional audit staff could you recruit and train in 1980 without swamping the operation?

Ms. KNOWLES. It's my understanding that the best way to develop an audit operation is to bring in junior people and to train them in the program. And I might say that when you have your own audit staff you get the benefits of their training.

We estimate that the audit agency could grow at the rate of approximately 50 people a year. That puts a strain on the system, especially the backup administrative and clerical system. But we think it is vital to the functioning and to fulfilling our statutory purpose.

Senator CHILES. Mr. Secretary, as you and I have discussed before, I believe that for the new CETA to be made credible, you're going to have to focus on a slow buildup of a high-quality program, and we're going to get away from pushing the local governments to hire up fast, because I'm afraid that's what leads to abuse.

PRESSURE ON HIRING

Just the other day I recevied a copy of a letter that was sent to the President from the Board of Commissioners of Orange County, Fla., Orlando, complaining of pressure put on them to hire.

What he says in that letter is:

> Dear Mr. President: We who serve on the Board of Commissioners of Orange County, Florida, have noted with interest that the CETA prime sponsors will have underspent CETA's public service employment moneys and to the level from $400 to $600 million by the end of FY '79.
>
> As a consequence of this underspending, the Department of Labor is requiring each prime sponsor to modify its Title II and Title VI plans to hire more people into PSE systems just to ensure that there is not an excessive carrying of PSE moneys into FY '80.
>
> This need to spend money—nothing has been said about serving people—was highlighted early in March of '79 when Ernest Green, Assistant Labor Secretary for Employment and Training, stated

And he is quoting, I guess from a letter—

> Mr. Green: The entire CETA system is on very thin thread.
>
> In large part this is due to the many unfilled slots in the public service employment program. Fewer than 520,000 slots are filled now, yet the program was expected to average 625,000 slots this year.
>
> The failure to fill these slots may be jeopardizing the entire CETA program, and especially PSE.
>
> Green said—this is now back to the Commissioner—
>
> We are to fill the existing surplus of slots, if only to spend the money. It is incomprehensible to us that such a travesty of good fiscal management can be foisted on people of the county.
>
> Mr. President, why not reduce the program by the $400 million and return it to the treasury or apply the money in an area where it is going to be effectively utilized, not just spend so the Department of Labor meets an estimated level of employment."

I think that when you find a local prime sponsor having that kind of feeling about a program, then it is maybe something we should heed, that maybe you are trying to push the program too fast.

PROBLEMS WITH PUSHING TOO FAST

Secretary **Marshall**. That could be, Senator Chiles.

Let me explain that I believe we do have a problem if you try to push it too fast.

And one of the problems that we have in the CETA system is that we have not been able to provide for the kind of steady buildup and management system that would provide better management of it.

The main reason for that, of course, is uncertainty about the future of the system.

One of the reasons for the shortfall is these prime sponsors didn't get this money for this fiscal year until November. Therefore, we had a problem of shortfall in enrollment. In order to meet the needs all over the country, we have to try to get the system built back up.

There are a number of reasons they didn't build up, as I believe we have explained before. One being uncertainty of funding at the end of the year, and I think that is bad. What we should try to do is provide more assurance to the prime sponsors that the funds will be there so they won't have—say, half of fiscal year to try to meet the needs.

The other concern we have, and that we both had at the time of the original buildup with the stimulus program, is that those people who couldn't spend the funds let us know, and that if they don't spend the funds, we will give it to someone who will. If they can't use the funds in Orange County, we ought to have the ability to divert those funds.

ALLOCATION FORMULA

We have a number of prime sponsors all over the country who are crying for more funding and who have a desperate need.

Now, one of the problems we also face is the allocation formula that we are not responsible for. We allocate funds according to the legislative formula—we undoubtedly allocte funds to some areas that do not have as much need as others who could make use of the funds. I think those are things we have addressed ourselves to.

Let Mr. Green respond further.

Mr. **Green**. Senator, I think that in Orlando, as you know, title II–D was focused on the structural unemployed. I would think there are undoubtedly some more eligible participants in that area. We know that black unemployment runs 2½ times as high as white unemployment; yet that prime sponsor says he has exhausted all eligible participants.

We would be happy to take the money out of there. We have a reallocation process to redistribute moneys to areas that have exhausted their need factor.

But the thing I find puzzling, when I talk to community groups from the State of Florida—Orlando, Jacksonville—they say they have very high incidences of black and Hispanic unemployment. If that prime sponsor has exhausted the eligible pools, then we would be happy to transfer it to another area.

Senator **Chiles**. Well, I think there can be a difference between having a need and being able to build up a program with a certain speed. And I don't think that just because you have a need, that you should throw money out there where you are not going to have the right kind of jobs, because you are not going to have the right kind of controls, and that is what got you into trouble in title VI.

I don't think that Orlando should necessarily be punished by taking the money away because they are saying they don't see how they can build up as fast as they are being told to. You should move slowly to put those people on and put those programs on in some kind of an adequate and proper basis.

And I think that is really what we are trying to demand as a Congress, that these programs come out that way.

Mr. GREEN. One thing, these figures represent less than what that prime sponsor had in the previous year. PSE buildup went as high as 725,000, and that the overall annual figures are 625,000. So we are dealing with fewer numbers, both nationally and in each individual prime sponsor.

Senator CHILES. We are trying to go more into title II where we are addressing a different kind of problem.

Mr. GREEN. Right. And in this case, the shortfall goes mainly in title II–D.

TITLE II FUNDS FOR TRAINING

Senator CHILES. Well, I know you have been attempting to set a 20-percent maximum of title II funding that can be used to train. That seems to say that if local sponsors think that the structurally unemployed need more skills before they can be placed into jobs, but that you are putting the pressure on to hire, whether they think they have the skills or not.

Why not let the program build in the way that they think it should be built up, rather than to put a limit and say you can only use 20 percent of the funds for training?

So you are putting the hammer on them to hire, whether they think they are skilled enough or not.

Mr. GREEN. We have not put the limit at 20 percent. That is a guideline. And if they are able to demonstrate a need through their plans, they certainly have the flexibility to do more.

Secretary MARSHALL. Let me also say that I completely agree. I think the point you raise is a very good one, and that we do need to let the prime sponsors build up a program according to their ability to do it.

But as far as I know, the only pressure we have on them is if they don't use the funding, then whether it goes back to the Treasury or not, it will be used for other purposes in places where it is needed.

What we hope to do with this system—and I think this is the single most important thing we can improve—is to get more stability in the CETA system.

That is both in terms of our regulations, so we don't have to keep rewriting them and change the signals on the prime sponsors, and in terms of some relative stability concerning the assurance of funds—so they can do some forward planning and get the management system going.

Senator CHILES. I agree with that, too. I don't necessarily think that stability means you have to achieve a goal that you have set in the Department to start with, to fund a certain number of jobs if they can be put on line in the best and proper way.

Secretary MARSHALL. I agree with that. I don't think we should automatically engage in any kind of activity. We must respond to changes in needs.

Mr. Chairman, if we are leaving the area of fraud and abuse and Inspector General, let me make, if I may, a couple of points.

INVESTIGATION PROCESS ALONE IS NOT ENOUGH

I think from our perspective—maybe I didn't make this clear enough in my statement, and I would like to emphasize it.

The first one is that we don't really believe we are going to solve the management and fraud abuse problems in the CETA system through investigations alone, and we can conceive the investigation process as a part of the overall management system, and that's true of all of our programs. We don't have enough investigators in any area.

We also believe that we should be preventive. Before we came in there was no Office of Special Investigations. There was no such effort. This is a relatively new program that we have created in 1978. It has been turned into the Office of Inspector General.

And as Ms. Knowles said, we don't think what we have is chiseled in stone in any way. It is a new program. The Inspector General is not even on board yet. We take a flexible attitude about it. We want to try to figure out what works and what doesn't work.

Therefore, it would not be appropriate to judge the startup, that we don't have enough FAPS, but what we try to do with those is to do it slowly, to learn as much as we could from the ones we have done before we go onto a full-scale program.

We intend to launch a full-scale program, but we believe we should do some demonstrations and do some learning about how to do it—to see whether our ideas really can be translated into practice.

And that is essentially where we are.

Thank you, Mr. Chairman.

Senator EAGLETON. This will be my final comment on this general question of waste, fraud, abuse, and mismanagement.

If these programs had a track record, a good track record insofar as waste, fraud, abuse and mismanagement, then I would say to the new Inspector General who in fact has not as yet been confirmed, "Well, we will give you a year to study all of this, get settled into your job, get familiar with all of the intricacies of the Labor Department, et cetera, and this year will be sort of a holding pattern year. And the next year we will expect more elaborate presentations."

But that is not the case.

The case is that these programs have had a track record of grievous mismanagement and ripoffs reflected not only in these GAO reports to my right up here, but reflected in an even thicker stack of documents that are internal Labor Department studies, reports, investigations, and what have you.

So it is not good enough, at least from my point of view, that we just wait another year and see what develops.

So let me put it this way to you, Ms. Knowles.

I have a great deal of confidence in you. Your background, I think, for the job you are about to embark upon, is exemplary.

I wish you would take this sort of as an instruction from me and Senator Chiles. And in this regard, I am positive I can speak for the full committee.

INSTRUCTIONS FOR THE INSPECTOR GENERAL

I want you to rework the whole budget submission in this area of waste, fraud, abuse, and mismanagement. Under the law, you are charged with that responsibility, whether the internal structure of the Department of Labor blends into that, I'll let you fellows work that out. You are charged with that as the Inspector General.

I ask you to give me your advice and help in how to beef up this organization. If we don't get that kind of advice from you and the Secretary, then the Committee will do it on its own and we probably won't do it as well as if you assisted us in the endeavor.

We might assign moneys to personnel and put them in the Office of Investigation when more properly they ought to be in FAP, or maybe they ought to be in the Office of Management Assistance.

We can do it, but we can do it better with your advice and suggestion.

Now, we have some time, since the House has full committee markup in June. The House subcommittee markup may start tomorrow and, of course, we don't begin to work on the markup until the House has completed. So you have some time.

If the OMB people raise hell with you, tell them that is what you were told to do by the committee and those fellows are going to do it if we don't help them to do it.

So let's see what you can bring forward on that.

Secretary **Marshall**. Mr. Chairman, that is good advice and we'll follow it.

CETA'S TRACK RECORD

I think, however, that where I would take exception with you is in whether or not the CETA system has a good track record. I believe that the bottom line of all these investigations is that it does. There are problems with it, but I think it is very easy to look at isolated problems and conclude that the system therefore does not have a good track record.

I think in the audits, if you look in the audits for prime sponsors to indicate all the money spent, there were questioned costs as I indicated here, $150.3 million, of about $22.8 billion expended in those programs. The audited amounts were $5.8 billion.

This amounts to about 2 percent of audited funds that have been questioned.

In addition, only one-third of the questioned costs have been disallowed by the grant offices.

Therefore, based on the $5.8 billion audited, less than 1 percent of the CETA funds have been wrongfully expended according to the audits that have been undertaken. And I think all of the investigations that have been undertaken also indicate what I emphasized at the outset. This program probably has been evaluated more than any social program, and that's the reason you have these reams of reports. And the reason the GAO knows as much as they do is that they use our material. And then go beyond that in their own way. While that's not our system, we did inherit the CETA system.

So I don't take any pride of authorship in it, but I have checked very carefully both in my previous professional work with the Department of Labor, and since I have come here.

And I am prepared to argue that it does have a good track record, that it has reduced unemployment, that it has helped millions of people.

It does have problems in it, but I don't believe those problems are as pervasive as the newspaper accounts and others would indicate.

Senator EAGLETON. Well, I am not as comforted as you are about these proportionally low level of questioned costs, one-half of 1 percent questioned costs, because Mr. Staats, Elmer Staats, the Comptroller General, and Mr. Civiletti have testified at great lengths before the Budget Committee that the more you look at CETA programs, the more abuse you find.

And it's their belief, their testimony, that the Department of Labor has never performed an individual check of CETA participants. There is such a low level of questioned costs because you are not set up internally within the Department of Labor to make the kinds of investigations that are necessary.

So I am not comforted by the one-half of 1 percent. If you hear from Staats and read these GAO reports and you hear from Civiletti, the thrust of their testimony is that the more you look at the program, the more fraud, waste, and abuse you find.

Secretary MARSHALL. Well, I think that would be true of any program you talk about, and especially any program as complex as this one.

And I think that one of the best ways to get at that question is to have Mr. Civiletti, Mr. Staats, and me together at the same time so we can confront each other with our respective evidence.

Senator EAGLETON. You and Ms. Knowles, because the ball is going to be very much lobbed into her court. This time next year she will be questioned very, very closely about whether improvements have been made, and what the track record is. Next year she will have had a full year on the job, so I——

Secretary MARSHALL. Because they don't have any greater interest in improving the programs than we do.

Senator EAGLETON. Let's move to the substantive merits, as it were, of these programs.

And by way of that background, I will put into the record, as I mentioned, a series of three articles that appeared in the month of April in the Washington Post by Mr. John Berry and Mr. Art Pine.

The headline for the first article was—and I think we gave you copies—"19 Years of Job Programs, The Question Still Is 'What Works?' "

The three-part series will appear in the record at this point.

[The information follows:]

(From the Washington Post,
Tuesday, Apr. 24, 1979)

19 YEARS OF JOB PROGRAMS—QUESTION STILL IS 'WHAT WORKS'

First of Three Articles

By John M. Berry and Art Pine
Washington Post Staff Writers

Over the past 19 years, the United States has spent $85.8 billion on programs to train the poor and "hard-core" unemployed and fit them into today's job market.

By almost all accounts, that effort has been a bust.

For all the outpouring of federal, state and local money over the years, there are few experts, even among those who support the current round of programs, who claim they have been effective—other than to provide income for the recipients.

Moreover, despite the massive investment—$15 billion in the current fiscal year alone—experts still don't know such basics as which kind of programs work best, what impact they have over the long run and what changes, if any, to make for the future.

"The jury still is out on the ability of these programs to improve the tradeoff between inflation and unemployment," concedes Isabel V. Sawhill, director of the National Commission for Manpower Policy, an independent federal agency now evaluating the entire effort.

The dilemma is a crucial one, not only because of the cost but because the problem of "structural unemployment"—the social and economic illness these programs are designed to relieve—is so devastating to society and seemingly intractable.

Although the total number of jobs in the U.S. has grown sharply in recent years, the number of hard-core jobless has mushroomed since the mid-1960s—from 380,000 just 15 years ago to more than 2.4 million today. And it shows no signs of abating.

The consequences of failure are enough to provoke shudders: Large numbers of persons unable to get and hold decent jobs; sharply increased costs for welfare and income maintenance; and, in the case of youth unemployment, the possiblity of widespread disorder.

During most of the past 20 years, manpower programs have enjoyed bipartisan support. Democrats liked them because they aided the urban disadvantaged. Republicans embraced them as a respectable alternative to welfare. There seemed little real question that the effort should go ahead.

But with all the recent problems—and so little knowledge of what works best in this field—both sides have begun backing away.

The Carter administration effectively has shelved a long-promised move to expand these programs as a means of combatting hard-core unemployment and pushing the jobless rate back to the 4 percent level earlier thought of as "full employment."

Carter's plan when he took office was to use traditional Democratic pump-priming and more liberal money and credit policies to slash unemployment—then almost 8 percent of the work force—to about 5.75 percent. Then he would rely on manpower programs to do the rest.

Now that the jobless rate is down to 5.7 percent, however, Carter is supporting only a few new youth and training programs. Rather than the sharp expansion that had been expected, the administration is keeping its proposals—and its expectations—modest.

Charles L. Schultze, chairman of the president's Council of Economic Advisers, told a House subcommittee earlier this year, "Our ability to predict how much improvement in structural unemployment will be forthcoming from these measures is limited.

"At the present time," Schultze declared, "we cannot be sure that continuing or even rapidly expanding these programs would make possible an overall 4 percent unemployment rate without accelerating inflation."

Similarly, the administration has come across with only a token fulfillment of its 1977 promise for a major attack against youth unemployment. Although more action could emerge from a study being run by Vice President Walter Mondale, so far Carter has proposed only limited—and mainly experimental—new programs.

To most manpower specialists, the major problem over the past 20 years is that the programs have provided jobs, but little training. But, training is considered the key, because the difficulty is not in finding jobs but in providing people with enough skills to get and hold good jobs. (Except during recessions, some jobs usually are available—even to the unskilled.)

Arnold H. Packer, the Labor Department's chief economist, says the difficulty for these workers is that the jobs they do get pay so poorly and have so little future that they offer little attraction. These workers who take them also leave them quickly.

Structural unemployment describes cases where workers are too poorly trained—or located in the wrong place—to get and hold jobs that make use of their potential. While the category includes a high proportion of teenagers, blacks and women, it also reaches many other segments of the work force, both urban and rural.

Manpower experts argue persuasively that with adequate training, these unskilled "in-and-out" workers would be able to compete for better jobs. And, armed with new skills, they could relieve some of the labor bottlenecks that make the U.S. economy so inflation-prone.

But that's not what has happened. Instead, the bulk of the money spent on manpower programs has been little more than an income-maintenance effort. Training has been noticeably absent, or often poorly run. And there's been too little coordination with the needs of industry.

The United States has tried just about everything over the years, from the Job Corps and Neighborhood Youth Corps of the Kennedy and Johnson days to the present massive—and controversial—Comprehensive Employment and Training Act of 1974.

The effort has spawned a set of heady promises: The programs were to uplift the hard-core unemployed, provide them with counseling and help toward a high school equivalency certificate, train them for skilled or semi-skilled jobs and shift them from welfare to decent jobs.

But the potpourri of government and private efforts over the years has produced little to show, either in terms of reducing the level of structural unemployment or improving the tradeoff between joblessness and inflation.

Manpower specialists are almost unanimous in listing these problems;

- The government has tried to use manpower programs to accomplish too many goals at once—straining the system, as in Carter's most recent effort.
- Local manpower efforts have been disrupted by too-frequent shifts in federal policy as Congress, impatient to achieve quick successes, has scrapped or replaced existing programs before officials have had a chance to determine whether they're working.
- Although the programs have been well-enough designed in some localities, in general they've had too little link to the nation's economic needs. Too often, local programs have turned out secretaries in areas where opticians were needed instead.
- In too many cases, both federal and local officials have played the game of "creaming"—taking applicants they know will be easy to place in jobs—so they can guarantee high job-placement statistics for federal ad-

ministrators. In doing so, however, they end up ignoring some who need help the most.

- Incredibly, the government has failed to keep meaningful statistics on the effectiveness of these programs—making the past 15 years' effort almost worthless in terms of learning what works. The Labor Department began a comprehensive study only in 1977, but it won't yield solid results for years.

- Manpower experts in the field also are sharply critical of the Labor Department's administration of these programs over the past several years. They say the agency has been lax in riding herd on local programs and more concerned with "numbers" than with how the programs actually are working.

Ironically, the manpower effort began not as a program to aid the hard-core unemployed, as it's come to be thought of now, but as a bid by the federal government to help "save" middle-class workers who were being threatened by the late-1950s specter of growing automation in industry.

The first broad-scale, post-war program was the 1962 Manpower Development and Training Act, administered by the Labor Department's Office of Manpower, Automation and Training. The theory was that because growing new technology would eliminate thousands of jobs, workers would need retraining.

The scope was broadened during the Great Society days of the mid-1960s, when the Johnson administration included manpower training programs in its new anti-poverty program. The basic theme became help for unskilled workers, but the program remained relatively small.

Perhaps the biggest change—and the most destructive to the training concept—came under Carter, who used the program as an anti-recession tool in 1977. Localities were forced to expand their programs so rapidly that the effort blew apart. The jobs slots were filled, but training was sidetracked.

"The conversion of these programs from structural to countercyclical cut into their ability to deal with structural problems," says the Manpower Policy Commission's Sawhill. "And having to grow that rapidly gave way to a lot of the current fraud and abuse."

Also contributing to this article were Bruce DeSilva, Ron Dusek, Paul Grabowicz, Ann Inspee, Flora Johnson, Jill Kearney, and Austin Wehrwein.

(From the Washington Post)

STRUCTURALLY UNEMPLOYED: TRAINING PLANS QUESTIONED

Second of three articles

By John M. Berry and Art Pine

Washington Post Staff Writers

Linda Harris is black, poor and out of a job.

The 30-year-old Durham, N.C., dropout has worked on and off for most of her adult life—as a pieceworker in a local poultry-processing factory. When she gets work, it's bound to be dirty and low-paying. But the worst thing is, the job usually is temporary, only for a few months.

Harris is one of a growing number of Americans whom economists have branded the "structurally unemployed."

What that high-sounding label means, in essence, is that Linda Harris—and all her counterparts, white, black, male, female, young, old or middle-aged—doesn't have the skills to get and hold a productive, long-term job.

Labor Department studies show that about two out of every five of these workers are young, aged 16 to

24. A third are women. Another third are prime-age men. Only one in eight is black, but that figure accounts for a high proportion of the nation's blacks.

Numerically, most of the structurally unemployed live outside the nation's big cities. But low-income, poorly educated persons in urban ghettos—particularly those in decaying cities, where job opportunities have moved to the suburbs—are hard-hit, too.

To be counted as structurally unemployed under the Labor Department's definition, a person must have been out of work 15 weeks or more—though not necessarily all at once—and have an income below the poverty level. Many, like Linda Harris in Durham, work for a few weeks at a time, changing jobs often.

Manpower experts agree the best way to help Linda Harris—and others like her—out of this dilemma is to help them acquire a marketable skill, through some sort of formal training. In Harris' case, at least, that's just what happened—under Durham's federally financed manpower program.

The Durham program, run by the city government, snatched Harris from the local unemployment line, provided her with counseling and classroom instruction for her high school equivalency certificate, and sent her to Durham Technical Institute to learn hospital recordkeeping practices.

Now she expects to be taking a job soon as a "central service technician" at the sprawling Duke University medical center—thanks in large part to the manpower program. Her wages will amount to $4 an hour or more—about 25 percent above what she earned at the poultry plant. But the work will be year-round.

[illegible]ally, the government's spate of programs aimed at dealing with the structural unemployment problem ranges across classroom training, temporary public jobs designed to give workers "job experience," on-the-job training grants, wage-subsidies for private employers and summer programs for youth.

Taking them as a whole, Michael Borus, a manpower specialist at Ohio State University who has kept tabs on such efforts, damns the programs with faint praise. The manpower programs have "a marginal impact on these peoples' lives—in terms of hundreds of dollars, not thousands," Borus says.

A good many, such as the program run by San Francisco, Calif., are regarded by manpower experts as models—laden with fresh new ideas and talented administrators to help carry them out. Others, such as that in Miami, Fla., have been wracked by reports of fraud and waste.

Durham's program falls somewhere in between. A modest, no-frills effort that costs $3 million a year, it's been free of scandal and political abuse, and "reasonably" run by most standards. At the same time, it's decidedly unspectacular. Experts say it may be typical of what goes on nationally.

[illegible] of Durham's emphasis is on [illegible]m training. The city offers classes to prep one-time dropouts for the North Carolina high school equivalency examination, often taking functional illiterates and training them—sometimes for as long as 33 weeks—to pass the test.

Those who pass the exam either are placed in basic-skills jobs (such as a receptionist) or are sent at city expense to the well-run Durham Technical Institute, which offers courses in a variety of skills and occupations—from dental technician to machinst—all keyed to local job-market needs.

The effort also includes other components—an on-the-job training program that contracts with local businesses to hire and train low-income workers, a counseling division designed to help applicants decide where they'd be best suited, and a handful of youth programs.

L. G. Holleman, the former tobacco workers' union official who heads the local manpower operation, says the most valuable service his agency offers is counseling and "credentialization"—providing workers with certificates they can show prospective employers.

The results have been moderately successful. A follow-up study su[illegible]d by Holleman's chief deputy, A [illegible] one, shows that of some 180 program graduates whom surveyers were able to find, 123 were working, 49 were still unemployed and 7 had dropped out of the labor force — an unusually good record for any program.

But the Durham program has some problems as well:

. Despite the rosy figures the city has compiled, many of the program's participants simply drop out before completing the course. Says Jim Leutze, a member of the state's overall manpower board: "You're dealing with the most difficult segment of the population, so the success ratio won't be high."

And partly because of recalcitrance by private industry, Durham's on-the-job training program has been only marginally successful, compared to, say, the classroom instruction portion of the program. Its summer youth programs for teenagers have been little more than "riot insurance" to prevent unrest.

Perahps the biggest reason so many manpower programs have failed is that the applicants so often start out from such a low base. Many effectively are illiterate. Most lack a diploma or other job certification. Many haven't held regular jobs before, and don't know what's required of them.

If Linda Harris in Durham is a manpower success, then Don Richardson, 33, a black in San Francisco, isn't—at least so far. Richardson was living on welfare when he finally got into a training program for machinists in November 1977. He completed the course last August—without any fond memories.

"The instructor was trying to change you all around, get you to think on a level where you were just going along with him," Richardson complains. There was little help available in finding a job. "They don't go out and help the students after they've completed the course," he says.

"I got knowledge out of the CETA course, but as far as a job, I haven't gotten one yet," Richardson says. "There were people coming down from the companies and telling us in class, 'When you get out, look us up.' But when you get out, they say they don't remember you and there's nothing open."

The absence of a waiting job is a problem that often faces graduates of federal manpower training programs. But experts say the dearth of jobs isn't all industry's lack of interest. Often, it's a commentary on the quality of the local program's training.

Take Nik Smith's experience in Chicago's manpower program. At 34, Smith had been the manager of the mail-order department of a small business that shut down. When he could not find a job in his field, he tried to retrain for a new occupation or trade. After looking at wage levels, he decided on welding.

After a good deal of wrangling with a CETA counselor, Smith finally was admitted to a welding course at a local vocational school operating on government contract. But he found the curriculum inadequate and the equipment obsolescent and badly maintained.

After graduation, Smith eventually landed a job at an industrial furnace plant—but only because he could add fractions and read blueprints—none of which was taught in the course. "The school's brochure promises to teach a lot of stuff," Smith says, but little of what was promised actually came through.

Victor Murauskas, director of the school, retorts that employers "are not realizing that our schools are producing entry-level people. The personnel who interview our graduates seem to expect people with five years of experience. Our graduates can do basic work with supervision."

The problem of teaching basic skills runs through comment after comment from managers of local manpower programs. Mike Van Leesten, director of the Providence, R.I., branch of Opportunities Industrialization Center, is another who is unhappy about much of CETA's focus.

"If federal officials really wanted to help," Van Leesten declares, "CETA would give us latitude to provide remediation. We need each man to read and write and to do simple mathematics, as well as to give them hands-on training."

"Instead," Van Leesten continues, "job-training programs are geared to very short-term stuff—get them into training for 13 weeks and out into the world of work. That might be okay for a certain percent of people who need training, but who'll hire you if you can't read or write?"

What training is needed—specific job skills or basic literacy? Who can best provide it—government, or private schools like Durham Technical Institute? Who should get it—minority groups, which may be the most needy, or the Nik Smiths who already have some skills but need more?

Those are the kinds of questions government policymakers keep asking themselves. At the moment, they don't have any good answers—in part because they don't know what works best or, in some cases, even what really works at all.

Also contributing to this article were Bruce DeSilva, Ron Dusek, Paul Grabowicz, Ann Inspee, Flora Johnson, Jill Kearney, and Austin Wehrwein.

(From the Washington Post,
Thursday, Apr. 26, 1979)

JOBS GOALS CONSENSUS SEEN

Last of three articles

By John M. Berry and Art Pine

Washington Post Staff Writers

Part of the reason the U.S. has been unable to make much headway against structural unemployment is that the problem is laden with complexities.

It isn't simply—as some would argue—that hard-to-employ workers are malingerers, who merely are refusing to adhere to the traditional American work ethic.

Rather, the problem stems from such factors as changes in the structure of the economy and government policies that tend to encourage persons to shun low-skilled jobs.

There are these considerations:

- The increasing proportion of women and teenagers in the work force has heightened competition for low-skilled jobs. And illegal aliens are taking many jobs that otherwise would be available to the structurally unemployed.
- The government's ability to spur the economy to create new jobs has been inhibited by inflation. Policymakers believe they must keep the budget tight to avoid overheating the economy.
- There seems to be virtually no public outcry about the structural unemployment problem, except among blacks and some liberals. Most Americans seem content to keep the jobless rate about 5.75 percent.
- The past decade's explosion in welfare and unemployment benefits has given low-skilled persons added flexibility to spurn unattractive jobs they previously would have taken.
- Recent steep increases in the federal minimum wage and payroll taxes, while needed by some measures, have reduced the willingness of employers to hire low-skilled persons.
- The deterioration of the public schools, particularly in large urban areas, has left many young job-applicants inadequately equipped for the slots they're seeking. On the other end, too many now have college degrees.
- Low-skilled workers themselves often come from backgrounds where they have little opportunity to learn what's expected of them in the marketplace. Counselors say many aren't even aware they're supposed to show up regularly.
- Employers are reluctant to become involved in any program that requires much paperwork. As a result, even the best efforts to link manpower programs to private industry have run into snags.

At the same time, policymakers don't really know what kind of manpower programs work best—or even whether to continue the effort at all. And even if they did, Congress is so divided it's difficult to push through any change.

With such a raft of problems, can the nation really hope to solve its structural unemployment problem?

That question is on the minds of Carter administration policymakers and key congressional leaders as the government's manpower programs come up for new scrutiny this year.

The administration, beset by doubts about the effectiveness of the manpower programs, has shelved plans for their rapid expansion. Instead, the White House has proposed limited new moves in two areas:

First, it wants to begin so-called private-sector initiatives — joint ventures with private industry to train the structurally unemployed and find jobs for them.

Second, it is strengthening a variety of experimental programs for dealing with youth unemployment—from stay-in-school work programs to a new version of the 1930s-style Civilian Conservation Corps to give youths "work experience."

But many outside analysts are coming to even more cautious conclusions about the potential for federal manpower programs. Their prescription: Hold the line on existing efforts, while trying to make current programs better.

Interviews with more than two dozen leading manpower specialists suggest a surprising degree of consensus about what needs to be done:

GOALS: Congress should decide what it wants to accomplish with manpower programs and then stick to it.

TARGET GROUPS: Most of the effort should be concentrated on adult workers, not youths—despite the high teenager unemployment rates.

REGIONAL NEEDS: Local manpower programs need to be keyed to regional economic development, so participants are trained for occupations where jobs are available in the locality.

STAFFING: Repeated program changes, some initiated at local levels, mean that local officials may never become skilled in running them.

EXPECTATIONS: The government—and the public—needs to lower its expectations about manpower programs. While some may be effective, experts argue, these programs just aren't going to produce spectacular results because the problems are so tough.

George Johnson, a University of Michgian economist and one of the more optimistic labor market experts, offers this assessment of the potential for federal manpower programs:

Johnson argues that if the government doubled all its current outlays for employment and training programs, it "might" lower the jobless rate in five years by 0.2 to 0.3 percentage points—if the expansion were managed efficiently.

"But," Johnson cautions, "it is unrealistic to expect miracles of these programs."

Yet, miracles are still in demand—in part because the needs of the people caught in the structural unemployment vise are so great. As a result, there still is substantial pressure for the government to take action.

Last year's enactment of the Humphrey-Hawkins "full employment" act was one outgrowth of this concern.

Economists are virtually agreed that the law's incredibly ambitious job goals—an unemployment rate of 4 percent by 1983—would require a minor miracle.

The only way out is if policymakers can find a way to improve the current "tradeoff" between inflation and unemployment. And to many analysts, the best hope of doing that lies in better training programs.

Still, for all the gloom among the experts about past accomplishments—or even the lack of them—no one is suggesting that the game is not worth the candle.

Declares Michael Wachter, a labor market economist at the University of Pennsylvania: "I believe we can learn from past errors and create successful training programs."

Agrees John L. Palmer, a former Brookings Institution manpower specialist: "The idea is to aim at the margin—how to improve what we have. We have to take a much more micro approach—to look at specific projects."

Alan Fechter, a National Science Foundation economist, shares that view. "I think the administration is right, by and large, for reining in," Fechter says. "If you start expanding those programs, it's not clear that you won't get diminishing returns."

Many of the experts are skeptical about the administration's new push to involve private industry more heavily in manpower training. Previous efforts in that direction have not fared much better than direct government operations.

"We've already spent an awful lot without knowing what we got into," says one manpower specialist who's been close to the recent administration reappraisal efforts. "We just have to do better from now on."

But even with better administration and a firmer set of goals, there nevertheless is a question whether in the long run the critical need for stability in the manpower programs will be met.

For all its reluctance to move any further this year, the White House has made structural unemployment measures a touchstone of the president's new welfare reform plan, which officials hope to push through for 1983.

And no doubt if the economy takes a downturn, as most analysts now expect, Congress and the president again will consider public-service jobs as a quick—and visible—antirecession device, no matter what the impact on training.

Altogether, the outlook is not promising, despite more than a few success stories of individuals who have managed to lift themselves out of the cycle of sporadic, low-paying jobs that had left them poverty-stricken.

But, as one of the manpower experts interviewed for this series puts it, the alternative to trying is "to risk creating a permanent economic and social underclass that will threaten society"—a choice even more expensive than the current set of flaws.

Senator Eagleton. I picked these articles because (*a*) they are fairly recent, (*b*) they were in the Washington press so everyone in the room had a chance to read them, and (*c*) because they are fairly typical of articles that have appeared in other newspapers throughout the country in recent months and in the last couple of years on the CETA programs.

And let me just read a few quotes from these articles, and then get your comment on them, Mr. Secretary.

I'm not going to read everything that is marked in yellow. How did it turn out?

Secretary Marshall. It came out in black.

Senator Eagleton. Can you not read it at all?

Secretary Marshall. We can read it.

Senator Eagleton. I will do a few, I won't read all of these marked portions into the record.

Starting off with the earlier ones:

> Over the past 19 years, the United States has spent $85.8 billion on programs to train the poor and hard core unemployed and fit them into today's job market. By almost all counts, that effort has been a bust.

Reading—

> Few experts claim they have been effective other than to provide income for the recipients.

Skipping down—

> Experts still don't know such basics as which kind of programs work best.

Skipping over to the third column of that first article:

> Charles Schultze, Chairman of the President's Council of Economic Advisers, told a House subcommittee earlier this year, "Our ability to predict how much improvement in structural unemployment will be forthcoming from these measures is limited."

Under the next column—

> The major problem over the past 20 years is that the programs have provided jobs, but very little training.

I will cease there with that point.

Give me your comments on those quotations from this first Washington Post article.

COMMENTS ON ARTICLE IN WASHINGTON POST

Secretary MARSHALL. I will be glad to do that, Mr. Chairman.

Let's take the jobs with little training point first.

I think that there is a good deal of confusion about what the purpose of public service employment was supposed to do. In fact, a lot of people assume that when you are talking about CETA, you are talking about public service employment. They don't know that there is also a sizable training program within the CETA system.

In other words, that there is more to it than that.

The overwhelming proportion of public service employment programs were never supposed to provide training. They were supposed to provide jobs, so they have done what they were supposed to have done, as far as PSE is concerned.

Other programs we have had that have been evaluated at great lengths are training programs, very broad training. That is what they are supposed to do.

The Job Corps, for example, is mainly a training program. It is a very good training program. It takes seriously disadvantaged young people, usually into a residential setting which tends to give a wide array of supportive services, and places them on jobs. The placement rate now is well over 90 percent.

I think the Job Corps is an example of how you can take seriously disadvantaged people and by doing the kinds of things that they need to have done for them, make it possible for them to get into the mainstream.

STEP PROGRAM

Another very good program that we have which we are in the process of evaluating is a STEP program, which basically is a training program. Skill training employment program is what STEP stands for.

So I think that what you have to do when you look at our programs is——

Senator EAGLETON. Isn't STEP being phased out?

Secretary MARSHALL. It is being phased into the private sector initiative. We learned from STEP how to get the private sector involved in training business. Our apprenticeship programs have been training programs that we know do work. They have been thoroughly evaluated through time and they do have a lot to improve. I believe we do know what works and what doesn't work with respect to training.

We know the best way to get skilled training is a combination of related instruction or academic instruction with on-the-job training. We know that the skill centers are doing a pretty good job. And one of the articles that was published in the Post about the same time that this series came out was on the skill center.

I think it is inconsistent to say that a jobs program has failed because it didn't provide training. A jobs program is a jobs program, not a training program.

The next point has to do with the question of—and let me also say, with respect to training, through the experience we have had, we've learned that certain kinds of things can be done in an institutional or classroom setting and other things cannot be done in that setting.

JOB CORPS

We have learned through our Job Corps program how to provide basic education to young people who are seriously disadvantaged. I will invite these reporters—and I will live with their conclusion—to visit one of our Job Corps campsites and talk with the young people involved in the programs. I will be willing to abide by the objective analysis that they do, because I am confident that it is a good process.

Now, what Job Corps experience indicates is how these programs evolve. That is to say, it hasn't always been as well managed as it is today, has not always been as effective a program as it is today. There were problems with it when it started. But what we have tried to do is to learn from these programs, to learn from the experiences of this and our other youth programs.

Now let me also say that the appropriate mix of jobs and training programs is dependent on the nature of the program. If you have 8-percent unemployment or almost 8-percent unemployment, then your main concern is to get unemployment down—that is, to produce jobs in order to decrease unemployment. You don't have to do a lot of training for unemployed people who are already trained who are out of work. The main thing they need is jobs.

STRUCTURAL UNEMPLOYMENT

The thing you need when you are concerned about a structural unemployment program and structural unemployment is more than training. And we're doing that as we are shifting more toward training and out of jobs, as we move in that direction.

I get no sense of that concept in looking at these newspaper pieces.

The question also is how much can we predict—in Charlie Shultz' comments we cannot predict with precision how much we will reduce structural unemployment as we produce jobs. The main reason for that is, as we create jobs we draw more people into the work force. That is one of the reasons we have had an increase in employment in this country of 8 million people in the last 2 years, which is unprecedented—at no previous time in our history have we ever had an increase of employment of 8 million in 2 years.

One of the reasons for such a great increase is we create jobs. We draw more people into the work force. I think that is good, too.

I think we should look at employment and not just unemployment as we increase the labor force participation rate.

REDUCING UNEMPLOYMENT

Now, what this means, in order to reduce unemployment by about 2 percentage points, we have had to increase employment four times that amount. In other words, had it been one for one, unemployment would have declined by 8 million—by 8 percent, which would have meant we could have eliminated it.

But it didn't. Therefore you get a great deal of difficulty in predictions.

But I never have considered that the program had failed because you cannot give a precise macroeconomic prediction of how it works.

In order to really find out what effect a program has, you have to look at what it was supposed to do. You have to look at the objectives. You cannot simply take a measurement of the whole universe out of a work force of 100 million and say, because we can't perceive any effect on these aggregates—I believe we can and I believe it is a good bargain, because I believe that by spending $10 or $11 billion we save at least $20 billion a year.

If the unemployment were 1 percentage point higher, that would be an increase in the Federal deficit.

Now, if you look at disadvantaged youth—it is necessary to look at what has happened in the black youth unemployment and correlate that with our program. Before our program went into operation, black unemployment was still rising, while white unemployment was going down. After our programs went into operation, black unemployment declined faster than white unemployment.

In the 4-year period, from 1973 through 1977, nonwhite youth employment in this country actually declined. Black male youth unemployment declined. In the past 2 years, beginning in March of 1977, during which period our new programs went into operation, black male youth employment has increased by 34 percent.

That has reversed the trend completely. It serves as kind of a complete break. You can point this out with many of the targeted groups, and we will be very happy to put that evidence into the record and to indicate the effect that the programs have had.

[The information follows:]

ANALYSIS OF THE IMPACT OF THE NEW YOUTH INITIATIVES ON YOUTH EMPLOYMENT AND UNEMPLOYMENT

In the last year, over 230,000 employment and training slots were created which will serve almost double this number of youth over the fiscal year. Of the 230,000 slots, 160,000 were subsidized jobs in the public and private sectors. Participants in these jobs are counted among the employed by the Current Household Survey.

Between December of 1977 and December of 1978, the number of 16- to 19-year-olds employed grew from 7,580,000 to 7,737,000, or an increase of 157,000. During this period, the 140,000 increase in 16- to 19-year-olds enrolled in employment components of the youth initiatives accounted for about 89 percent of the measured employment growth.

Between December of 1977 and December of 1978, the number of 16- to 19-year-old nonwhite youths who were employed grew from 613,000 to 676,000, an increase of 63,000. During this period, the estimated number of 16- to 19-year-old black youth enrolled in employment components of the youth initiatives rose by over 56,000, which accounts for 89 percent of the employment growth for that period.

EMPLOYMENT AND UNEMPLOYMENT

[Numbers in thousands]

	Civilian labor force	Number employed	Percent unemployed
	Nonwhites aged 16–19		
March 1973	776	563	27.4
March 1974	842	573	31.8
March 1975	809	484	40.0
March 1976	844	544	35.7
March 1977	772	465	39.8
March 1978	911	548	39.8
March 1979	934	638	31.7
April 1979	955	625	34.6
	Black males aged 16–19		
March 1977	365	207	43.4
June 1977	606	342	43.6
September 1977	405	253	37.5
December 1977	477	307	35.5
March 1978	430	248	42.4
June 1978	595	356	40.2
September 1978	389	251	35.5
December 1978	442	295	33.3
March 1979	447	291	34.9
April 1979	419	277	33.9

Source: Employment and Earnings, Bureau of Labor Statistics, Department of Labor.

EVALUATIONS OF PROGRAMS

Secretary MARSHALL. We have also done some things that the evaluators and critics of the program tend to ignore, and that is to try to evaluate these programs on a longitudinal basis. A lot depends on how long you wait after the young people are involved in the program to make your judgment about what effect it had.

As a result of this, the program training developed continuous longitudinal data systems that make it possible for us to follow individuals through time. When you look at that data you can get a better judgment of the impact, and that data indicates the conclusions that I have suggested at the outset. People who participate in this program gain materially from their participation; it does improve their employability; and it does reduce the unemployment.

But let me say, about the evaluation business, it is part of economics, that it is an art as much as anything else. There are a lot of problems involved in trying to get precise evaluations and you will never be able to do it, because in order to get precise evaluations you would have to get laboratory conditions, which do not prevail in the real world. You would have to get two groups who are alike in every way, except one went through your program and one didn't, in order to get conclusive evidence.

Now, what millions of critics have done is to take a logical program, assume that if people did participate in the program it would improve their conditions, shift the burden of proof to the program, and to say unless you can prove that you have improved the conditions, then we'd say that it does not. Since you can never prove with precision that the program has done anything, depending on the biases of the evaluator, you have great difficulty.

I think that the approach that we should take is not to say that because you cannot prove with statistical precision that the aggregate effect of a program has been that, that therefore it failed. That is like saying you are guilty until you are proven innocent.

What we should to do is use the rules of evidence, the very best evidence that can be gathered. I'm ready to do that, because if they want to marshal their evidence to say that the programs have not worked, I will marshal mine to debate, and I'll let you judge it.

FINAL CONCLUSION

I also would like to call your attention to the final quote. After this article goes through all of this it says, "The alternative to trying"—it is, and one of the experts puts it—"The alternative to trying is risking creating a permanent economic and social underclass that would threaten society, a choice even more expensive than the current set of flaws."

And in spite of what appears to be negative, I think that's the final conclusion that these authors wanted to give on their series.

UNEMPLOYMENT IN THE BLACK COMMUNITY

Senator **Eagleton**. I think that we can all agree, Mr. Secretary, that unemployment in the black community, especially black teenage unemployment, is one of the top social ills of our time, and that it is not a situation that is going to be solved instantly or overnight or by a magic wand. It is a problem we are going to have to cope with, that will require a substantial investment by the Federal Government.

So I am not quarreling at all with your intent and your motives, which I think are excellent in all of these matters.

With respect to whether the picture is improving in black teenage unemployment, is it not true that the unemployment figure for teenage blacks is still over 30 percent?

Secretary **Marshall**. Yes. It was 40 percent when our program started.

Senator **EAGLETON**. Now, do you attribute that improvement from 40 to 30—do you attribute that solely to your program or in part to an improved economy, insofar as the economy is concerned?

Secretary **MARSHALL**. I think one of the best ways to improve the economy is to reduce unemployment, and we can demonstrate, I think, that there is more stimulus to the economy through a jobs program, at lower cost, than any other way you can stimulate that.

The net cost of creating a job through public service employment is in the neighborhood of $5,000. So if you're going to stimulate the economy, we think this is a good way to do it. And I don't think anybody disagrees with that. I don't think, in spite of all the quarreling about how well the programs have been, I don't think anybody thinks there is a better way to stimulate the economy.

What we do know, though, is that during the first year of the stimulus program, one-third of all the growth in black employment in this program was—one-third of the growth in black employment during the first year of the stimulus program was because of CETA.

Senator **EAGLETON**. Let me put in the record at this point an article from the Wall Street Journal, February 1979, the title, "Tracking Trends Through Good Times and Bad: Joblessness Among Young Blacks Keeps Right on Rising."

And the lead two paragraphs by Mr. Maladre, M-a-l-a-d-r-e:

> Amid America's prosperity, a depression is in progress. General business activity is at a record level. The economy spawns more jobs than ever before. Yet consider the message carried in the adjoining chart.

And there is a chart on black teenage unemployment.

> The rate of joblessness among black teenagers, climbing with little interruption through a quarter of a century, now is close to 4 in 10.
>
> It is far higher than the country's overall unemployment rate—of one in 4—at the pit of the great depression of the 1930's.
>
> The table traces by population group the unemployment story since 1954.

This will appear in the record at this point.

[The article follows:]

[The Wall Street Journal, Thurs., Fe. 1, 1979]

THROUGH GOOD TIMES AND BAD, JOBLESSNESS AMONG YOUNG BLACKS KEEPS RIGHT ON RISING

By Alfred L. Malabre, Jr., (staff reporter of the Wall Street Journal)

Amid America's prosperity, a depression is in progress.

General business activity is at a record level. The economy spawns more jobs than ever before. Yet, consider the message carried in the adjoining chart:

The rate of joblessness among black teenagers, climbing with little interruption through a quarter of a century, now is close to 4 in 10. It's far higher than the country's overall unemployment rate—of 1 in 4—at the pit of the Great Depression of the 1930's. The table traces, by population group, the unemployment story since 1954.

[In percent]

	1954	1978
Black teenagers	16.5	36.3
White teenagers	12.1	13.9
All blacks	9.9	11.9
Black adult females	8.5	10.6
Black adult males	9.9	8.6
White adult females	5.1	5.2
All whites	5.0	5.2
White adult males	4.4	3.7

Joblessness among black teenagers has soared, but unemployment among white teenagers, as well as among blacks generally, has risen only moderately since 1954. Jobless levels actually are down in two categories—black adult males and white adult males.

Black teenage unemployment last year, though very slightly under the 1977 level, was precisely as high as in 1975, when the last recession hit bottom, and about 4 percentage points higher than in 1974. the rate for white teenagers has inched down. Since 1975, the jobless rate for every other group in the table has fallen. The rate for black men has dropped from 11.7 percent to 8.6 percent.

Official estimates of black teenage unemployment, moreover, may seriously understate the situation. The published figures overwhelmingly represent black teenagers but also encompass other nonwhites whose jobless levels tend to be lower. In addition, it's widely agreed that so-called hidden unemployment—joblessness not picked up in surveys—is particularly prevalent among black youths.

The unemployment rate for black teenagers is "really 50 percent" or more, maintains Vernon E. Jordan, Jr., president of the National Urban League, a social-service group serving mainly low-income blacks. Whatever the true rate for black youths, Mr. Jordan sees their predicament as a major reason that "black America today verges on the brink of a disaster."

Why have young blacks, through times of economic growth as well as in recessions, fared so badly in the labor market?

Analysts who monitor the broad, national picture offer various explanations. Governmental jobs programs don't focus enough on inner-city neighborhoods where black teenagers predominate. New jobs keep emerging farther from inner-city areas. Increases in the minimum wage particularly hurt young blacks seeking work. Other factors range from inadequate educational facilities to job interview difficulties.

Interviews with black teenagers, as well as employers and social workers dealing directly with them, were recently conducted in Florida's Dade County. They tend to corroborate the generalizations. An effort was made to canvass the same black, low-income joblessness that appeared in this paper on February 9, 1977.

Unemployment among young blacks has long been a major problem in Dade County. The 1977 survey found that some 40 percent of youths in the neighborhoods visited were looking unsuccessfully for work. No comparable head count was taken now, but the interviews do suggest that 40 percent would likely be too low a figure today.

A TALE OF TWO CENTERS

Dissatisfaction with jobs programs is apparent in the remarks of Odessa Hill, a black who heads a team of eight social workers at an "action center" aimed at finding work for jobless teenagers in a poverty-ridden neighborhood just north of Miami. Her staff will probably have to be reduced in coming months, she complains, because governmental funds for her center were recently trimmed. Funds for another such center in a somewhat more prosperous neighborhood, she notes, were recently increased.

George D. Sarol, director of the second center, attributes the increase in support—from $106,000 yearly to $136,000—to "our good record at finding jobs for the young people who come here." The center trains teenagers in draftsmanship. A recent graduate of the 5-month course now earns $5.50 an hour in the design department of Burger King Corp. in Miami. About three dozen youths apply for the 14 openings that come up at the start of each course, Mr. Sarol says. Selection is on the basis of aptitude tests.

These young people, however, are mainly white and generally are from homes where at least one parent holds a full-time job. In contrast, every youth interviewed at Miss Hill's center recently was black and frequently from a home on welfare. Reasonably typical is Reggie Bernard, who reports that he has been "looking for a year and a half" without success. The high school dropout says that there are "just no jobs around" for him.

A worsening problem for many Dade County teenagers is the inaccessibility of new jobs. "We get calls about job openings where the position would take hours for the kids to reach and get home," says Miss Hill. One youth willing to spend some 3 hours daily getting to and from his job is Andre Delaney. The 18-year-old black lives in northwestern Miami and works—5 hours a night, at $3.50 an hour—in a large hotel south of the city. During the day, he is enrolled at a high school near his home.

A MAXIMUM PROBLEM

The minimum wage presents difficulties. As it has risen—from $2.30 an hour in 1976 to $2.90 now—some jobs once open to young Dade County blacks have either dried up or been grabbed by older, more capable persons deciding to enter the labor force.

Mr. GREEN. Senator, if I may. One of the things in the Pine article which perhaps we don't agree with—is whom the programs are targeted on. They make the statement that most of the importance should be concentrated on this, despite a high teenage unemployment rate.

I think if you look at the so-called expert, you will see that, reading through this article and many others, that there are flaws; and second, that there are programmatic disagreements with how we should handle the issue.

EMPHASIS ON EMPLOYMENT

Secretary MARSHALL. I think it is important to reemphasize the point I tried to make. We need to not look at just unemployment rates, but to look also at employment rates. One of the reasons for that is when the program started, the participation rate of young blacks was significantly lower. It was 38 percent in April of 1977, while the white was 60 percent. One was 38, the other was 60. And that means that if you just focus on the unemployment rate, you don't focus on the great growth in employment.

So what I would urge people who are concerned about the problem to do is to focus on both, what is happening to employment as well as unemployment. But I also agree that it's one of the worst problems we face. That is the reason I defend these programs so vigorously.

What was happening before our programs went into operation was that those rates were rising while the white unemployment rate had started down. We have reversed that trend and I think what that indicates is that CETA programs can do it. We have had, in a relatively short period of time, an improvement in the employment of blacks and young blacks, and I believe we can and should continue to use the programs to do that.

LITERACY TRAINING

Senator **Eagleton**. I commend your change in emphasis, as you testified a few minutes ago, the change in emphasis in the direction of enhanced training programs. And also, I might add, that has been Senator Chile's point that he has made from time to time, distinguishing between title II and title VI of the public service employment.

Now, on the question of training, a common theme that runs through many of these GAO reports is the importance of literacy training for individuals to get and hold a job.

What roles should CETA play, say, in connection with the Office of Education in providing basic educational service?

Secretary **Marshall**. I think we should play an active role, and I believe that we are doing that. We are trying to work very closely with the Office of Education.

One of the things that I think has to happen is that we have to find new ways to improve the academic background of people who are educationally deprived.

What we find is that many youngsters who come into the CETA program, especially in the Job Corps, who have been through high school, still have great difficulty reading and writing. What we need to do is to develop procedures and techniques that will reach those young people. We are doing that in our programs, in nontraditional ways, to upgrade the educational skills, literacy, and computational skills of people who are educationally deprived.

A number of our programs concentrate heavily on the non-English-speaking population, Hispanics in particular, but also among people who are supposed to be proficient in the English language and are not.

CLASSROOM TRAINING

Senator **Eagleton**. GAO found last July that only 49 percent of the participants in classroom training projects found jobs after completing training, and that only 32 percent retained jobs 6 months after training. Furthermore, many were in jobs not related to the training received.

Would you comment on that?

Secretary **Marshall**. Yes. I think that the classroom training is not the best way to train for many skills. It is very difficult to use classroom training and try to get people jobs that require skills that cannot be imparted in that way. That has been a problem.

ON-THE-JOB TRAINING

That is one of the reasons that we are doing everything we can to improve the connections between public employment training system and the private sector. We believe if we can get the private sector to help more, shift more to on-the-job training relative to classroom training—one of the reasons people give classroom training is because those are the facilities they have, and the CETA system has not had adequate participation by the private sector in it.

It was attempted under MDTA earlier. That was not a wholly successful effort to get on-the-job training but I believe that we can do more with that.

I also think that a better way to evaluate the effects of this program, as I mentioned earlier, is to take a look at the longitudinal data and follow the people over a long period of time. The question is not only how many of them were actually placed, but many of them went back to school and I wouldn't consider that a bad outcome.

Some of them dropped out of classroom instruction and went to work, and they worked at something related to that. And so the placement rate is one measure, but it is not the only measure of the outcome.

Senator EAGLETON. GAO points out that classroom training costs ranged from $2,800 per placement at one sponsor and up to $15,100 at another sponsor. How can there be such an enormous disparity?

Mr. GREEN. Senator, as you know, the classroom training deals with various occupations, and that would depend on the occupations. It would depend upon the individual skill needs of those individuals when they came in and what it was you were trying to do.

For instance, if you were training a mechanic for a computer system, you would need to spend more time than for someone being trained as a short-order cook—so it would depend on the individual.

Senator EAGLETON. GAO found that less than a quarter of one sponsor's clerical participants could type at the 45 to 55 words per minute needed to qualify for available clerical jobs.

How frequently do you find that training courses do not provide participants with skills needed to do the job, and what action do you take when you find deficiencies?

Mr. GREEN. The problem is to restructure and to rebuild the training curriculum to bring the private sector in, to have them develop the requirements and the skills needed in that course training. When that problem does occur, we attempt to correct it. But the main thing is to bring the employers into the picture, and in that way they not only do the OJT training, but they will have an input to planning it. If they need a typist typing at 55 words a minute, then that will become the standard.

GAO REPORT ON THE TIDEWATER AREA

Senator EAGLETON. Have either of you had a chance to read the May 8, 1979, report on the Tidewater area of Virginia?

Secretary MARSHALL. I have not.

Senator EAGLETON. Have you, Mr. Green?

Mr. GREEN. Yes, sir; I read through it.

Senator EAGLETON. Let me address myself to it, and I am just using it as sort of a test tube example. I suspect that the same situation could be found in many other parts of the country. And since it is very current and very recent, I will just use it as the basis of my questioning in terms of concluding on the top line of our chart, CETA Assistance Comprehensive Employment and Training, Title II.

I gave you a summary sheet. It is very brief. It could have been made much more elaborate, but in the interest of time, we have distilled it as follows. Also this is the chart we got from GAO with their report.

I guess you can just barely see it from where you are, but it is about as confusing a chart as I have ever seen, because it reflects a total of 44 Federal employment and training programs in Tidewater, Va.

CETA accounts for 21 of the 44. GAO found program overlap and duplication, too many administrative channels before it reaches the population to be served.

GAO found that few employers had hired employees in the last 3 years from Federal manpower programs.

Job retention rates for those hired from the programs is 22 percent. Almost half of the employers had never been contacted by job or placement specialists, et cetera, et cetera.

You can see the rest. It is on that page.

Could you respond to the GAO report, Mr. Green?

Secretary MARSHALL. I don't have to read it, Mr. Chairman. I can respond without doing so partly because I think this is a typical problem that we have in many cases.

LEGISLATIVE MANDATES

In the first place, of course, you do get too many training programs, in my judgment. You have had a great proliferation. We will be glad to work with the Congress to try to reduce the number and get more order out of the system, because most of it is due to legislative mandate to serve particular areas and not to do the administrative programs.

We are also talking about the complexity that is encouraged by the administration.

As we look at the youth program, we think there is a lot we can do to simplify the number of programs, but the reason we have the number is because of the legislation we went through in order to get it.

One of the ideas behind CETA and the concept of CETA was that the local prime sponsors would be the best people to pull all these together.

Now, obviously, if we make it too complex to understand, then it would be very difficult for them to pull all the pieces together. In fact, I spent most of my life looking at these programs from that perspective rather than the perspective of Washington, and I think you do get confused.

I think if you put up the chart that would really be appropriate, it would be even more confusing, and that is awful.

This relates to the economic development activity. Look at the proliferation. If you are trying to build rural development, for example, the great array of programs that you have to deal with in order to be able to promote rural development, is too complex.

I believe one of the best ways to improve anything is to simplify it, and it needs a lot of attention to try and get it simplified.

Mr. GREEN. Senator, if I may, a number of things that impact on the Southeastern Manpower Authority:

One, as you know, there are seven cities involved in the consortium.

The second part is that there are on the chart a number of other agencies that you pointed out inside the Department of Labor.

One of the things we are doing on the youth activities is to consolidate the demonstration projects. We are trying to work with EDA and with HUD on a grant application program to see if we can coordinate the selection of those sites with the CETA system more closely.

The last point I think the criticism made, again, the council is a long way from bringing the employers in that community into the CETA system to impact on it, and to let the CETA training people know what their needs are, what they are going to be increasing, whether they have a new plant facility—to do the advanced planning like we did in Pennsylvania with the Volkswagen plant and others—so we get a better linkage between the development aspect and the training.

Senator EAGLETON. I think it is fair of you to point out, Mr. Secretary, and you, Mr. Green, as well, that this chaotic system of 44 different programs—21 of them being CETA programs—is not solely your creation.

Congress set up these various programs. Some of these programs from time to time, some of them were compromised in essence.

A group of people thought YIEPP was really great. Another group thought YETP was great, another group thought YCCIP was wonderful, and another group thought YACC was superb, and finally another group was hot for SYEP.

So in order to satisfy all these disparite groups, we gave a little bit to all of them, more than just a little bit, in some instances. So we have to share in some of the blame.

And so I think it is proper for you to point that out for the record.

RECOMMENDATIONS FOR CONSOLIDATING PROGRAMS

The committee would very much like to have, by the end of this year, certainly well in advance of next year's budgetary submissions, your recommendations as to how we can consolidate some of these programs, how we can bring order out of chaos, for instance, in Tidewater, Va., and consolidate some of these youth programs.

Now, I know, as Mr. Green testified, you have some pilot projects that you are testing the idea of consolidating some of these programs. But hopefully by the end of this year you will have some findings that will be relevant out of those pilot projects that may serve as a guidepost as to how to proceed in the future.

We would like to have your observations on consolidation in both training and what you have overall in the CETA program, as well as the subcomponent parts that address themselves to titles IV and VI of the various youth programs.

JOB CORPS PARTICIPANTS' PAY

Moving down a bit to the Job Corps, the Labor Department's Office of Youth Programs put out a report on the Job Corps this February, indicating that enrollee pay has not increased for nearly 15 years. The $30 a month Corps members receive is the same amount members of the Civilian Instruction received for 45 years—Conservation Corps, I'm sorry—Civilian Conservation Corps.

What do you have to say about that, Mr. Secretary?

Secretary MARSHALL. I will let Mr. Green respond.

Mr. GREEN. Senator, the Young Adult Conservation Corps does not provide the range of services that Job Corps provides. Well, the $30 has not changed. It is something they receive as opposed to an hourly wage that the YACC participants receive.

But again, the difference is in that the Job Corps participants are receiving a wide range of services, both medical assistance and educational, as well as a wide range of training activities. And the YACC program is purely work. It is a 7-hour workday, 5 days a week, either in a residence or out on a worksite.

If both of those were work programs they would be comparable, but one is an educational activity.

GAO REPORT ON JOB TRAINING PROGRAMS

Senator EAGLETON. I will direct your attention now to the summary sheet that I gave you entitled, "GAO Report—Job Training Programs Need More Effective Management—July 7, 1978."

Do you have that one, Mr. Secretary?

Secretary MARSHALL. Yes.

Senator EAGLETON. GAO reviewed CETA's classroom training program, concluding that many were not successful in obtaining and retaining employment. Of the sample, 32 obtained and retained jobs for 6 months.

GAO states that participant's wages after training increased only slightly over pretraining wages. And it made various comments, et cetera, which we will insert in the record.

But I will direct your attention to the bottom paragraph that starts—

> In Boston, four keypunch trainees were placed in seasonal department store work. Shortly after these four were terminated, 21 keypunch jobs were identified in Boston, but the job developer did not refer any of the participants to those jobs.
>
> Classroom training officials said that the job referrals could not be made because a keypunch course was in progress. No effort was made to contact prior trainees.

Now, I know you are not personally familiar with that one incident, but again, for illustrative purposes, because I think this can be borne out in other examples, what would you have to say about that kind of dilemma?

MATCHING PEOPLE TO AVAILABLE SLOTS

Secretary MARSHALL. Well, I think we need to improve all of those, and first to pay more attention to selecting people for the appropriate programs, rather than simply because you have a slot available.

I think one of the problems that we have had has been that. Instead of trying to match people's characteristics more to the kind of training that would be useful for them, it has been to put people where you have the slots. That's one of the reasons you have this kind of result.

The other thing is, we need to pay more attention to the training itself. We want to do that on our own.

PRIVATE SECTOR INITIATIVE PROGRAM

We also have hopes that the private sector initiative and the private industry councils will cause employers to give us more help with both the training process itself as well as with placement.

We also believe that one of the main objectives we need to pursue in the coming year—and have already done it to some extent, but will do more with it—is to improve the coordination of the employment service or the job service and the CETA system.

Senator **EAGLETON**. Now, the private sector initiative program, that is the new program. A predecessor program back in the early seventies was called Job Opportunities in the Business Sector. And GAO pointed out in a 1972 report—I admit it is old and related to the predecessor program, but I think it has a relevant consideration, and I want you to answer that today.

It pointed out that the predecessor program—that it did not work well during the period of a declining economy. If we are about to embark upon a declining economy, some kind of a recession, whether small or large, how will the new program in the private sector initiative program overcome problems during an economic downturn when it is difficult to interest employers in manpower programs when they are more interested in the business of laying people off than they are in the business of hiring people on?

Secretary **MARSHALL**. I think that obviously it will always be more difficult then to run any kind of jobs program than a training program. It is easier to run a job training program when employment is rising. And that is the reason we have to have the appropriate mix.

We believe you need to have title VI-type jobs that tend to increase as unemployment increases, but I think we need to note the differences between the MDTA program which you are talking about and the CETA system. And there are several significant differences.

One is to a very significant degree, the MDTA was a national program where agreements were entered into, made on a national basis.

The private sector initiative is not that. It is a local program. In fact, one of the things that happened when CETA decentralized private participation, is that on-the-job training declined as a proportion of the total. It wasn't due entirely to decentralizing, but that had a lot to do with it.

That is to say, you could go out as President Johnson did and get the private sector to come in and sign up. You could get them into the White House and get the presidents of the major corporations to sign up.

The CETA system is not based on that premise. It is based on the assumption that if you want to participate in the CETA system, you go to it, it doesn't come to you. That is the assumption that has been made.

Well, not many private businesses in the local communities are going down and putting in applications to get CETA funds. If you want to get the private sector involved, you have to have an outreach effort.

The private industry council is based on that assumption, so that is one major difference.

The second major difference is that that system was not integrated in local labor markets as the private sector initiative will be. It is made up of representatives of the principal agents, actors in each local labor market, and they are working to meet the employment and training needs of that local labor market.

It does not assume that the private sector will do it or can do it by itself; it assumes that you must have a partnership between public and private sector in order to get that job done.

TARGETED JOB TAX CREDIT

Another major difference between the earlier effort and the present effort is that we also now have a targeted job tax credit, which is designed to induce the private sector to participate more in the training and employment of people who are eligible for the target job tax credit.

So I would conclude, Mr. Chairman, that by saying that while we don't know for certain if the PIC's will work, we strongly believe that the Private Industry Council will.

We have evidence from a number of places where we have had demonstration efforts. Some of those demonstrations were in places where we located an exemplary program that is doing what ought to be done and we are studying it to try and find out the essential ingredient of a successful program.

We are trying to make it possible for the local prime sponsors to put together a private sector activity that will meet their local labor market needs.

And while we don't know for sure that this system will work, we know that it makes sense. That there are some that will work, that are working, and we have also the targeted job tax credit.

We believe that at least gives us a good beginning to evolve the private sector program into a truly effective program.

Senator **Eagleton**. If in fact we are entering a recession and it can be debated whether we are or not, but if we are entering into a downturn in the economy, I take it though, what you are saying about the beneficial effect of the private sector initiative of the PIC's—Private Industry Councils—is that it would be as if we were entering into an economic upswing; isn't that fair to say?

Secretary **Marshall**. Even in an upswing there is considerable diversity, and one of the problems with the previous effort was that they concentrated mostly on large employers, nationwide companies.

The difference and the problem is that the large companies frequently tend to be the most vulnerable to a downturn. And second, that the employment actually is growing faster in small- and medium-size firms than in larger firms.

So by concentrating at the local level and on really smaller entities, we think that the program will not suffer the general decline that you are likely to get if you have a nationwide effort.

Because even when the overall unemployment is going down, there will be many areas in the country where employment is rising and unemployment is still going down.

Senator EAGLETON. We are going to skip for a moment national programs, title III. I am Xeroxing some material on that.

PUBLIC SERVICE EMPLOYMENT

And we will move on to public service employment, titles II and VI.

The new CETA law provides that not less than 15 percent of title II public service jobs funds be utilized for training.

How much do you expect will be utilized for basic educational services?

Mr. GREEN. As you know, Mr. Chairman, we have no experience in that. We assume it would be at or slightly above that, going into basic education.

This is a target group that is less well prepared for immediate work. They need more preparatory educational assistance. We would submit that it would reach that limit, and maybe go higher.

Senator EAGLETON. Well, then, Mr. Secretary, or Mr. Green, if you are giving heightened emphasis on training, as you say you are and I commend you for so doing, is the 15-percent set-aside for training of public service jobs enrollees sufficient to prepare enrollees for unsubsidized jobs in skill-shortage occupations?

Secretary MARSHALL. It may or may not be. The local prime sponsor also has other training funds available to meet training needs in local labor markets.

Senator EAGLETON. Well, according to the figures we have—the total unit cost for a title II is $9,650. And you are going to allocate $435 per job for training. The sum of $435 is a pretty tiny part of $9,650.

Mr. GREEN. I think, Mr. Chairman, that the item labeled training doesn't include all the training costs. About 50 percent is included under wages, and these represent wages and allowances paid to people while in training, so that line item doesn't reflect all the funds that will go into training specifically for those individuals.

Secretary MARSHALL. Even in title II-D—but title II-D is a jobs title. There are other titles that are training titles under CETA and those funds are available for the local prime sponsors as well.

INELIGIBLE PARTICIPANTS

Senator EAGLETON. The GAO report in March of 1978 stated that the rate of ineligible participants in CETA title VI public service jobs may be as high as 10.8 percent.

The GAO went on to point out that eligibility determination relied upon statements made by applicants, largely unverified statements made by applicants.

Have you improved—maybe I ought to ask Mrs. Knowles if she would care to comment on what improvements have been made in the verification of enrollee eligibility. Or Mr. Green.

Mr. GREEN. I will, Senator.

The new legislation requires much more specific information that the enrollees are expected to bring in at the intake point.

One of the things, just as the case of whether they are going or not—the summer employment program which has been a problem in terms of who is eligible, we require—in a fact sheet that we are giving out—each of the participants to bring verification of family income. That can either be W-2 forms, work statements, or a notarized statement attesting to a family income, the size of the family, et cetera.

So that data is required, and again, on the intake applications, it is much more specific than has been in the past.

CETA TITLE IV FUNDS

Senator EAGLETON. The Senate Budget Committee has recommended cutting your fiscal 1980 request for CETA title VI, public service jobs for the temporarily unemployed, from 200,000 down to 100,000 jobs.

What is the rationale for refunding this countercyclical public jobs program, now that the unemployment rate is below 6 percent?

Secretary MARSHALL. The rationale is that with 6 percent for unemployment we still have a lot of unemployment in the system. Even at the present 5.8 percent.

Senator EAGLETON. Well, why shouldn't more money be shifted from CETA title VI to title II, which provides public service jobs for the structurally unemployed?

Secretary MARSHALL. I think they are designed to accomplish different things.

Title VI should change with the level of unemployment and the formula that the Congress used, I think, is not bad. That is to relate it to the amount of unemployment that is above 4 percent, which the Congress has developed as its definition of full employment in the Humphrey-Hawkins bill.

Therefore, if that is the Congress definition of full employment, then—and they say they developed a formula in title VI of CETA to relate the number of jobs you have to the proportion of unemployment above 4 percent—it makes sense to vary title VI with that.

I would say that from the conceptual point of view, this tends to vary with the overall unemployment. So there is some rationale for increasing II as well as VI.

Title II clientele is the more targeted base. The rationale is that you get more people who already have some training employed as the overall level of employment rises. Therefore, you need to have less concentration on strictly cyclical unemployment.

REGIONAL OFFICE PROGRAM

Senator EAGLETON. Let's move on to the question of regional office program, and then we will go back to title III.

A February 1979 study by the National Council on Employment Policy pointed out serious regional office problems. Regional offices are supposedly the gatekeepers for information and authority that CETA prime sponsors need for their operations.

How true is it, as the study alleged, that CETA prime sponsors frequently bypass regional offices, since they can get faster, more accurate responses by calling the national office directly?

Secretary MARSHALL. I don't know how frequently it happens, but there is no doubt in my mind that it happens.

When we came to the Labor Department we had serious problems at the regional level—and that's one of the reasons we eliminated the Office of Regional Director and created a whole new structure.

Because I think administratively the regional director's job wasn't what he was capable of performing. We have eliminated that and now have a regional representative.

Within the regional ETA and other offices, we have also had problems and, therefore, we have tried to tighten up the management of the regional offices. There are areas that we have done things to improve the administration and management, and also where we have plans to continue.

I will let Mr. Green talk about the specific plans that they are developing to deal with it.

So to summarize it, we completely eliminated the regional directors in the Labor Department when we came in and created a new organization, the regional representatives. Within the agencies at the regional level, we are also trying to do some things to improve the coordination and management.

Mr. GREEN. In the ETA regional system we have changed seven of the regional administrators over the period of the last 2 years.

The second point, following along with the Secretary's comment, we have moved to consolidate the dissemination of information to the regions through the deputy's office.

And third, in the reorganization we are redefining the technical assistance aspect that the regional office offers to prime sponsors so that it is different from the monitoring aspect. We won't have the conflict that existed in the past.

Secretary MARSHALL. I think the bottom line, Mr. Chairman, is that the regional office is now serving the prime sponsors better. There will be less tendency to go directly to Washington, and that is what we are trying to accomplish.

TITLE III

Senator EAGLETON. Let's move on to title III.

I think the nicest thing to be said of title III is that it is a grab bag. I think another label that might be applied to it is a goodie bag or as someone may call it, a boondoggle.

Now, title III, in this year's budget, there is $372 million. And you have asked for $326, is that correct?

Secretary MARSHALL. Yes.

Mr. GREEN. We have asked to reprogram $45 million.

Senator EAGLETON. And you have asked to reprogram $45 million?

Mr. GREEN. Right.

Senator EAGLETON. Let me read off some of the recipients under this.

I have this long document, long white paper, and this, I think, the Department of Labor supplied to us.

These are the recipients of the largest under title III:

National Retired Teachers Association, Western Michigan Area Office on Aging, Family Services of Greater Lowell, Amigos Del Valle, Mississippi Council on Aging, Virgin Islands Office of Aging.

Then you go over on the next page and they have all kinds of acronyms—PREP in Cincinnati, NTULC in Philadelphia, BACOP in Oakland, VACOP in Sacramento.

Then we go over to the next page:

AFL-CIO Appalachian Council, Southern Railway System, Goodwill Industries, Epilepsy Foundation, Printers Union, Green Thumb, Bricklayers Union, Painters Union, Operating Engineers Union, Textile Workers Union, Ironworkers Union, Young Israel, Teamsters, Operating Engineers.

And then to go over to the next page, Health Education Resources.

We go down that list. There must be 30 names of various organizations—Associated Yeshivas, National Center for Black Aged, Carpenters Union, American Association of Small Cities, Tribal Employment Rights Council.

And on the next page—so on and so forth.

And then the final page of this thing—is this $14 add-on, or is this $40 million reprograming? Is that right: $40 million reprograming?

Redwood Activities, National Commission Occupational Information, National Commission for Employment Policy, Minnesota Work, Defender Programs, et cetera, et cetera, et cetera.

Now, Mr. Secretary, I wrote down a statement of yours and I agreed with you when you said earlier—here's what you said: Marshall: "We know what works and what doesn't work in training programs."

Well, if we know what works and what doesn't work in training programs, why are we frittering away $326 million, dropping little bags of goodies around the country? The labor unions, philanthropic organizations, civic groups, do-gooders, do-badders, white hats, black hats.

What are we doing with that program?

Secretary MARSHALL. Let me amend my statement to say, if I didn't say it I should have, we know a lot about what works and what doesn't, but there are a lot of areas we don't know much about.

Senator EAGLETON. Is that the way to find out? Half a million here, a couple of million there, couple of million there. Is this the way to find out what works or what doesn't work?

I agreed with your earlier statement, I think we now know a lot more about what works and doesn't work. If that's the case, what are we doing with this thing?

ADMINISTERING TITLE III PROGRAMS

Secretary **Marshall**. We are not trying to find out with all these programs what works and what doesn't work. Many of these are programs that cut across State lines. They are national programs that cannot be effectively administered by the CETA system itself. Some of it is demonstration work.

But, for example, let me just make it concrete.

One of these programs is a series of programs designed to help the elderly. One of these is the Green Thumb program.

Now, what we found is that that program is a very good one. We are not trying to find out anything with that, we are trying to make it possible for older people to get jobs and to provide services primarily in rural areas. And it is a very good program. The cost is relatively low to provide services.

But it is not a program that would be handled very effectively if you let each one of these groups go only to the prime sponsors and see if they can get funds for it, because they may or may not get funds for some programs that would be very good.

So we think where there is a very good program that cuts across State lines, one of the best ways to administer it is at the national level.

We support the OIC, for examle, through this program. The OIC has a very good network. They also go to the local prime sponsors to get funds, but we get them to help us with our national objectives as well.

We have migrant and seasonal farmworker programs as a part of this activity. All of those organizations are administering the same program. That is to say, you don't get as much diversity in the programs as in organizations, but the Congress has specified the kinds of activities that title III can be used for—one being, say, migrant and seasonal farmworker programs, another older American activities.

So that this is not a demonstration effort; I want to make that clear.

A good bit of this program is management oriented. Some of it—if you look at the first list—includes the data system that will make it possible for us to evaluate our programs on a continuing basis.

This is a horizontal labor market information system, so that the reason for doing it is that there are certain programs that would not operate very effectively if disseminated through the CETA system. And you couldn't be sure you would get the accomplishments you get in the present system.

Senator **Eagleton**. I am about to finish up on my time, and Senator Byrd is on the way.

Would the republic crumble if we don't fund the New Jersey National Guard and whatever they are doing?

Secretary **Marshall**. No, I don't think so. I don't know what the New Jersey National Guard is doing. In Oakland, the California National Guard has a very good program to take and discipline young people and provide training.

Senator EAGLETON. What are we getting out of this?

Mr. GREEN. That is one that deals with immigrants from Russia, and it is part of our mandated effort to look at assistance to refugees located in the United States. We have some training of Asian-Americans. But one I think I might point out in title III, in the new legislation there was some additional seven or eight activities mandated by the Congress.

This mandated these activities—many of them new items—and required the Secretary to fund them out of title III.

IMPORTANCE OF PROGRAMS

Senator EAGLETON. Mr. Secretary, let me ask you this:

Using the techniques of zero-based budget and just directing your attention to the chart on my left, what item on that chart would you rate at the lowest end or the least needed end of zero-based budget?

Secretary MARSHALL. We went through a zero-based budget and we gave up YIEPP. So I would put that one first, since that is what we did. [Laughter.]

Senator EAGLETON. That is the program that gets phased out anyway under the law?

Secretary MARSHALL. Yes.

Senator EAGLETON. What is the next?

Secretary MARSHALL. Other parts of the youth program should be considered when phasing out programs.

If you had zero-based budgeting with a mandate to serve the disadvantaged, and that is the mandate that we have from the Congress now, then I would put YACC next, because YACC is less targeted on the disadvantaged. It is a more expensive program. I think it is a good program. Also, if your mandate from the Congress is to concentrate your resources on the disadvantaged, then I would give less attention to the summer youth program and more to year-round programs.

I might have as many slots in the summer, but I wouldn't have as many resources. Our zero-based budgeting indicated that as well.

I would also note that with a higher concentration on structural unemployment, we would do what we did when we went through zero-based budgeting and that is, reduce title VI relative to title II–D, because that is a much more targeted program.

I think that we concentrated very hard in producing this zero-based budget and we came up with a very tight budget. I think there are some programs that are good programs which were cut because of that.

TITLE III FUNDS

Senator EAGLETON. You mean to tell me you would phase out these youth programs before you would touch even $1 of title III? You can't mean that.

Secretary MARSHALL. We went through zero-based budgeting with title III, too, and looked at those efforts and activities. No, I would not cut back title III any more than we did. I think title III is a good program.

Senator EAGLETON. What indispensible information are we getting for $496,000 from George Washington University?

Mr. GREEN. That is a special program to assist in recruiting and selecting minority students for the engineering field. And as you know, there is a growth in engineering, both through affirmative action and other activities.

Senator EAGLETON. That is more important than unemployed youth?

Mr. GREEN. Well, it is an important area. It is one that has relatively high pay and job security. So I think as a title III activity, Mr. Chairman, it is an important one.

Secretary MARSHALL. And it does get unemployed youths in the program.

Senator EAGLETON. What are you getting out of NAPNOC for $262 million?

Mr. GREEN. In the 1980 budget, they are not up for refunding.

Senator EAGLETON. What did you get out of them in the last year's funding?

Mr. GREEN. I will have to refer it to Mr. Godwin.

Mr. GODWIN. Mr. Chairman, the Neighborhood Arts Programs National Organizing Committee, NAPNOC, was awarded a contract for $261,933 for the purpose of assisting nonprofit community arts organizations to develop and design a national coordination activity to utilize PSE programs for creative job development projects.

The contract allows NAPNOC to explore and identify the potential for creative job and economic development through neighborhood arts programs throughout the country and provide technical assistance to prime sponsors and local organizations in developing CETA PSE projects.

Secretary MARSHALL. Let me also emphasize that one important use of this money is to help organizations leverage other activities.

That is to say, you give an organization some funds to get something started so they can be the catalyst. An example of this is that rural America has a $2.5 million grant from the Labor Department and with this they generated $70 million worth of work nationally for seasonal workers.

Sometimes this money provides what we call the catalyst. It is the thing that makes it possible for you to bring a lot of other activities together. And that is the reason that I think that it is significant.

Senator EAGLETON. Well, speaking for myself, I would disagree with your sense of priorities, using that zero-based budgeting analogy.

I just don't know how anyone could say that a program designed to get engineers employed is more important then was one of these programs.

ASSISTANCE FOR MINORITY YOUTH

Secretary MARSHALL. It is designed to get minority youngsters into engineering——

Senator EAGLETON. That a program in that area is more important than programs related to youth employment.

You told us at the outset—one of the great dilemmas in our time is unemployed black youths. It went from 40 percent to 30 percent, but 30 percent is still a staggering figure.

And taking all of that into account, to fritter money away the way it is done under title III, I think is wrong.

Secretary MARSHALL. Well, I would say if your objective was to decide priorities, I wouldn't give the program to get blacks into engineering jobs as high a priority as I would other things on the list, but I still think it is important because one of the things with black employment we need are some real models and upgrading.

One of the reasons black youngsters concentrate so much in relatively few occupations is because in the past they have been discriminated against in these sorts of jobs and have not been able to enter them.

So if we want to provide some breakthroughs in some of these areas like engineering, which is a good job and growing, then it seems to me to be perfectly proper to sponsor a demonstration to see if you can, through conscious effort, break down the barriers to black youngsters—this is a young people's program, too.

It is a high-wage occupation and I think in the whole scheme of things, it is an important objective.

I wouldn't say if you just have a certain amount of money to spend, that you would consider any of those programs relative to others.

MINORITY EMPLOYMENT OPPORTUNITIES

Senator EAGLETON. On this question, the minority employment opportunity, let me direct you to another one of these summary sheets. GAO report: "Federal efforts to increase minority opportunities in skilled construction craft unions have had little success." March 15, 1979.

Under title III, the GAO reviewed the Urban League and AFL-CIO-operated programs for minority recruitment in construction craft unions.

Criticism of Urban League's LEAP program:

One, placement figures were inflated—then a few words on that one;

Two, LEAP contractors attributed partial lack of success in retraining minorities because remedial academic training was difficult for enrollees and many dropped out.

With respect to AFL-CIO, in one city they placed only 38 minorities in the construction trades in 3 years.

Two, only one of the officials of 25 construction unions in the city had any contact with the program, et cetera, et cetera, et cetera.

What is your comment on that?

Secretary MARSHALL. Let me say that, here again, I think we have a situation whereby concentrating on the obvious faults of a particular program, we might lose sight of the larger problem. That was back before these programs started when there were almost no blacks in the skilled trade and construction industry, especially in the apprenticeship programs where they were desiring to work.

According to the 1960 census, there were only about 2 percent minorities in all of the apprenticeship programs in the United States. This is an example of the kind of activities that I think is one of the most successful programs that came out of the 1960's. The idea was to put together a bridge-building operation to recruit youngsters out of the black community primarily and to get them into the skilled construction trade.

It is, I think, a real success story, because black youngsters are now more represented in the trades than the black percentage of total work force where it was. It was only 2 percent. In many cities in the United States, there were absolutely no blacks in the apprenticeship programs in skilled trades.

Now they are entering these trades at a faster rate than their proportion for the work force and increasing their proportion, and we have the numbers to indicate it.

Maybe the program sponsors inflated the numbers, but the Bureau of Labor Statistics in the Bureau of the U.S. Census did not. The 2 percent is from the U.S. census figures, and not one that is supplied from prime sponsors, but the present figure on the proportion of participation of blacks in skilled trades is a U.S. census figure.

Now, these programs weren't the only thing. But it is significant to me that before these programs got underway almost no progress had been made in generally breaking down the barriers to black participants in the apprenticeship program.

OTHER FUNDING FOR NATIONAL PROGRAMS

Senator EAGLETON. Aren't there other portions of the Labor Department budget for some of these title III items that you list as national purposes, other areas where you can fund some of these if you are that hell-bent to fund them, using the backdoor approach?

Secretary MARSHALL. The advantage I see, if you need auditing activities and you have expended all the funds you have for auditing, this gives you some flexibility as a way to shift funds—it is sometimes called discretionary. It is really not discretionary, because a good deal of it's already earmarked.

There is a need to put in an operation this size some funds that would be flexible to fund programs and opportunities or perform some critical function in the total operations that needed resources.

Senator EAGLETON. Senator Byrd is waiting for an answer to this. He is involved on the floor of the Senate in the gas rationing debate. He is asking if it would be possible if you could come back at 1 o'clock. If that is not possible, then we will reschedule it for this Friday, if that would be possible.

Secretary MARSHALL. Well, I think that we could come back at—it might be easier for us, since I already have things scheduled—I would be happy to come back on Friday, if that would suit Senator Byrd.

Senator EAGLETON. We would prefer 1 o'clock today, if that's possible, I'm told.

Secretary **MARSHALL**. Well, if he would prefer that, I will do that.

Senator **EAGLETON**. Thank you very much, then.

REPROGRAMING FOR YACC

I have two questions or so from Senator Magnuson.

On April 11, Senator Magnuson wrote you, Mr. Secretary, on reprograming to prevent Young Adult Conservation Corps layoffs while the committee received a new programing request on April 26 for private sector initiatives. We have not received any reply to Senator Magnuson's letter.

What is the status of your consideration of the Young Adult Conservation Corps reprograming?

Mr. **GREEN**. We have, Mr. Chairman, been in discussion with the Department of Interior and the Department of Agriculture as late as yesterday, trying to determine the figures in the budget, working with the rest of the administration and OMB.

We hope to respond in the next day or certainly by Friday to the Senator's letter as to the Secretary's reprograming on that.

Secretary **MARSHALL**. As you know, Mr. Chairman, that program is administered jointly.

Senator **EAGLETON**. You have asked the committee to reprogram $75 million out of a pot of $140 million of unspent funds for private sector initiatives. Why shouldn't we earmark $23 million of these funds for the Young Adult Conservation Corps?

Secretary **MARSHALL**. Well, I think the reason for that is the private sector initiative is one of our major initiatives. The reason it wasn't funded in the 1979 budget was because we were operating under continuing resolution and that is new activity. So we had to put in a supplemental for $400 million.

That supplemental has not been approved, and therefore it has delayed the implementation of the private sector initiative, which we consider to be one of the most significant new activities that we are trying to get involved in.

And, therefore, we think that it is very important for us to try to reprogram in order to get that private sector initiative, to give some assurance—it would have been better if we could have gotten the entire $400 million in order to give the whole system some greater assurance—that the program was going to be funded.

CORRESPONDENCE

Senator **EAGLETON**. I will put into the record at this point correspondence between Senator Magnuson and the Secretary on the Young Adult Conservation Corps matter.

[The correspondence follows:]

LETTER FROM SENATOR MAGNUSON

April 11, 1979

Mr. Ray Marshall
Secretary
Department of Labor
Washington, D.C. 20210

Dear Mr. Secretary:

It has come to my attention that additional funding will be necessary in fiscal year 1979 to avoid a rapid phase-down of the Young Adult Conservation Corps. It is my understanding that such a phase-down -- if necessary -- would include a reduction in force for both enrollees and staff and would entail the closing of several YACC camps.

I view the YACC as one of the finest programs that the Federal government sponsors for America's youth and therefore feel that steps should be taken to ensure that the program retains its vitality and is not whipsawed by a lack of funding continuity.

Your fiscal 1980 budget request proposes a 50 percent reduction in the YACC, which will cause the program to drop from 29,200 to 14,600 enrollees. It is my intention to see that this proposed enrollee figure is increased by at least one-half when Congress acts on the fiscal year 1980 Labor-HEW Appropriations bill. My concern is that action should be taken to avoid drastically cutting the program in fiscal 1979, only to build it back up in fiscal 1980. Such action would be unfair to the enrollees and staff, administratively and fiscally unsound and would seriously erode the continuity of this effective and popular youth program.

I would, therefore, urge you to consider submitting a fiscal 1979 reprogramming request to keep YACC enrollments from falling below a level that may be sustained in fiscal year 1980.

Your prompt response to this request will be appreciated.

Sincerely,

/S/

WARREN G. MAGNUSON, Chairman
Labor-HEW Appropriations
Subcommittee

LETTER FROM SECRETARY MARSHALL

Honorable Warren G. Magnuson
Chairman, Subcommittee on Labor
Health, Education and Welfare
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is to request your approval to authorize the Department to reprogram excess unobligated Comprehensive Employment and Training Act (CETA) funds appropriated under the Temporary Employment Assistance appropriation to provide additional funding for the Federal portion of the Young Adult Conservation Corps (YACC) program in Fiscal Year 1979. We are also requesting your approval to slow the expansion of Job Corps sufficiently to provide funds for increased Job Corps enrollee pay and allowances in Fiscal Year 1980 within the current budgeted authority. Because of relatively high enrollment levels through the first half of the fiscal year and other factors, the Federal operators of YACC, the Department of Agriculture and the Interior, face a serious shortfall of funds for the remainder of fiscal year. Both Agriculture and Interior consider this shortfall to be so severe that they must begin immediate layoffs of both enrollees and staff as well as not replacing these enrollees lost through normal attrition.

The resulting reductions in enrollment by the end of the fiscal year would put Federal YACC enrollments far below that which would be sustained under the President's Budget Request for YACC in Fiscal Year 1980 at $166.5 million. This situation is further compounded by the costs which would be incurred by both Departments in terms of staff severance pay and the cost of security and maintenance of closed YACC camps; camps which are less than one year old and which will undoubtedly be reopened in Fiscal Year 1980.

In order to avoid running out of funds before the end of the fiscal year, enrollments would have to be reduced below that which would be supportable in the President's 1980 Budget Request. In addition, we have received indications from the Congress that the actual appropriation for YACC in Fiscal Year 1980 may be higher than the President's budget request, which would further exacerbate the current enrollment problem. Thus, we feel that it is prudent to reprogram $11,530,000 for YACC in Fiscal Year 1979 in order to maintain YACC enrollments at a level which will allow the program to enter FY 1980 at an enrollment level which could easily be adjusted to the funding level approved.

With regard to Job Corps, we wish to effect an increase in corpsmembers pay and allowance in the fourth quarter of Fiscal Year 1979 and Fiscal Year 1980 through use of existing Job Corps resources which had been earmarked to complete the expansion of Job Corps to 44,000 slots in Fiscal Year 1980. The net effect of this would be the completion of the expansion of Job Corps would produce 38,080 service years in Fiscal Year 1980 rather than the budgeted 42,000. These steps would free the $33.4 million necessary to fund the increase in pay and allowances for Fiscal Year 1980.

Sufficient Fiscal Year 1979 funds exist to implement the increase in the fourth quarter of Fiscal Year 1979 with only minor adjustments in service year goals.

The Office of Management and Budget concurs in these requests.

Your earliest response would be greatly appreciated.

Sincerely,

Ray Marshall

Secretary of Labor

Fiscal Year 1979

	Current Structure	Proposed Structure	Change
Temporary Employment Assistance			
1. Public service employment	$3,415,954,000*	$3,404,424,000	$-11,530,000
2. Private sector program	59,000,000*	59,000,000	---
3. Special programs for youth	---	11,530,000	+11,530,000
Total	3,474,954,000	3;474,954,000	---

* Reflects the proposed FY 1979 reprogramming which reduces budget authority for Title VI Public Service Employment and a corresponding increase in budget authority for Title VII Private Sector Initiatives Program.

LETTER FROM SENATOR MAGNUSON

June 7, 1979

OK

The Honorable Ray Marshall
Secretary
Department of Labor
Washington, DC 20201

Dear Mr. Secretary:

Thank you for your letter requesting the reprogramming of $11,530,000 for the Young Adult Conservation Corps. Your letter also asks approval to increase Job Corps allowances, by slowing expansion in enrollments.

Concerning the Young Adult Conservation Corps, I am pleased to approve reprogramming of $11,530,000 to prevent imminent layoffs. As I wrote you in April, I intend to see that at least half the proposed fiscal 1980 reduction in YACC is restored. This reprogramming is intended to avoid drastically cutting the program in fiscal 1979, only to build it back up in 1980.

With respect to the Job Corps, I concur with your plan to provide for an increase in Corps members' pay and allowances. Recent hearings before the Labor-HEW Appropriations Subcommittee brought out the fact that Corps members receive the same $30 monthly allowances paid to Civilian Conservation Corps members 40 years ago. It should be clear, however, that the goal should still be to achieve the 44,000 Job Corps enrollment level as soon as possible.

Sincerely,

WARREN G. MAGNUSON, Chairman
Labor-HEW Appropriations
Subcommittee

REPROGRAMING FOR PRIVATE SECTOR INITIATIVES

Senator EAGLETON. Now, I have this question jointly from Senator Magnuson and Senator Schweiker. They sent you a letter asking for further information about your proposal to reprogram $75 million for privte sector initiatives. I will put the correspondence concerning this reprograming in the record. We hope to have your response in time for action by this committee; OK?

Secretary MARSHALL. Yes.

[The correspondence follows:]

LETTER FROM SECRETARY MARSHALL

APR 26 1979

Honorable Warren G. Magnuson
Chairman, Subcommittee on Labor-Health,
Education and Welfare
Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This letter is to request your approval to authorize the Department to reprogram excess unobligated Comprehensive Employment and Training Act (CETA) funds to provide partial funding for the Private Sector Initiatives Program (PSIP) in Fiscal Year 1979, and to provide a modification to the Fiscal Year 1980 budget justification to continue such activities.

The President's 1980 budget proposes a $400 million supplemental for Fiscal Year 1979 to accommodate the Private Sector Programs authorized by Title VII of the Comprehensive Employment and Training Act (CETA) Amendments of 1978, and for administrative costs of Targeted Jobs Tax Credit (TJTC) authorized by the Revenue Act of 1978. It is my understanding that there is little chance that this supplemental will be considered because of considerations unrelated to the merits of these programs.

The uncertainty of Congressional action, the significance of our private sector programs for employment and training policy, and the importance of sustaining the momentum begun by our earlier work to put in place the administrative network for these programs this year, make it imperative that we seek alternative funding for carrying out the programs.

Because the tax credit administrative costs are relatively small, I have been able to provide for them from within limited discretionary resources. For Title VII, however, I am now requesting your concurrence in a proposal to use $75 million in unallocated CETA resources previously believed needed for Titles II-D and VI of CETA, divided between two appropriation accounts as indicated on Attachment I.

The reprogramming will permit prime sponsors and their Private Industry Councils to become fully operational during the last quarter of Fiscal Year 1979. This will mean, primarily, the financing of administrative costs due to the additional expenses of startup and initial implementation of the program and will permit the system as a whole to begin full operations with 1980 funds without delay.

A total of $140 million of unobligated funds, including $65 million in the Employment and Training Assistance account and $75 million in the Temporary Employment Assistance account had been set aside for possible allocation for PSE among prime sponsors whose Areas of Substantial Unemployment (ASU) were incorrectly or inadvertently omitted by State agencies, to correct errors which might have occurred in the initial allocations, and to provide for other contingencies. Earlier this year, the State agencies resurveyed all their local jurisdictions to make sure all ASU's were properly identified.

Final ASU data now available indicate that approximately $5 million is needed to make necessary adjustments to prime sponsor allocations. In addition, $60 million is being reserved for weather emergencies, consortia incentives, error corrections and other contingencies, leaving a balance of $75 million for reprogramming to PSIP in Fiscal Year 1979.

For 1980, the Department is modifying its 1980 budget justification for Employment and Training Assistance to reflect a decrease of $325 million in Title II-D funding and a comparable increase in Private Sector Programs. The $325 million includes $311 million for PSIP activities under Title VII and $14 million for Targeted Jobs Tax Credit. As noted, the TJTC activities are being initiated in Fiscal Year 1979 from available funds. Attachment II reflects the 1980 changes. Because of the anticipated excess carryover of 1979 Title II-D funds into FY 1980, this modification does not affect total 1980 budget authority requested by the President.

The Office of Management and Budget concurs in these requests.

Your earliest response would be greatly appreciated.

Sincerely,

Ray Marshall

Secretary of Labor

Enclosure

Fiscal Year 1979

	Current Structure	Proposed Structure	Change
Employment and Training Assistance			
1. Comprehensive employment and training programs	$4,431,030,000	$4,415,030,000	$-16,000,000
2. Special programs for youth	1,967,096,000	1,967,096,000	---
3. Other National programs	371,632,000	371,632,000	---
4. Private sector programs	---	16,000,000	+16,000,000
Total	6,769,758,000	6,769.758,000	---
Temporary Employment Assistance			
1. Public Service Employment	3,474,954,000	3,415,954,000	-59,000,000
2. Private sector program	---	59,000,000	+59,000,000
Total	3,474,954,000	3,474,954,000	---

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Fiscal Year 1980

	Current Structure	Proposed Structure	Change
mployment and Training Assistance			
1. Comprehensive employment and training programs	$4,545,500,000*	$4,220,500,000	$-325,000,000
2. Special programs for youth	2,047,376,000	2,047,376.000	---
3. Other National programs	371,011,000*	371,011,000	---
4. Private sector programs	---	325,000,000	325,000,000
Total	6,963,887,000	6,963,887,000	---

*Reflects the modification to the FY 1980 budget which increased budget authority for National Programs authorized under Title III by $45 million and correspondingly decreased budget authority for Title II-D Public Service Employment programs.

LETTER FROM SENATOR MAGNUSON

May 2, 1979

The Honorable Ray Marshall
Secretary
Department of Labor
Washington, D.C. 20210

Dear Mr. Secretary:

This is in response to your recent request to reprogram $75 million for the Private Sectors Initiative Program (PSIP). We understand your concern about this program and will be pleased to consider the matter.

Your letter indicates you are withdrawing your fiscal 1979 supplemental request of $400 million for the PSIP program and are proposing instead that only $75 million be made available in the current fiscal year through a reprogramming of excess CETA funds. In addition, you seek $325 million for PSIP through an adjustment to the fiscal 1980 budget.

In view of your change in approach, our Labor-HEW Appropriations Subcommittee will want to review your plans prior to making a decision on the proposed reprogramming, as well as your request to adjust fiscal 1980 funds. In preparation for such a review, we will need the following additional information:

First, please provide a listing of the 460 CETA prime sponsors who would receive funds in both fiscal years, indicating their degree of readiness to start the PSIP program. Include information on the status of their planning and their progress in forming Private Industry Councils.

Second, please indicate the amounts each prime sponsor jurisdiction would receive under both the $75 million reprogramming and the $325 million budget adjustment for fiscal 1980. Also if funding under the reprogramming were allocated to those local areas deemed most ready to start their PSIP program, which prime sponsors then would be chosen to receive their full share of the overall $400 million program? Also, please indicate how the $75 million in question would be distributed if it were allocated only to those jurisdictions where Private Industry Councils have been completely formed. We also will need a comparable list showing how the $75 million would be distributed if it were decided to give funds only to existing PICs and to those expected to be formed within a reasonable period of time.

Your letter indicated that an additional $65 million over and above the amount requested for reprogramming is being held in reserve for contingencies. In this regard, please indicate how much of the remaining unobligated fiscal 1979 reserve will be earmarked for consortia bonuses, as well as the total amount you plan to make available for those bonuses in fiscal 1979. Finally, indicate how much of the remaining funds set aside for contingencies in fiscal 1979 will be needed to enable you to continue with the welfare demonstration planning projects.

Your prompt assistance in gathering and submitting this information will help to expedite our decision on your request.

Sincerely,

RICHARD S. SCHWEIKER
Ranking Minority Leader

WARREN G. MAGNUSON
Chairman, Labor-HEW Appropriations
Subcommittee

LETTER FROM SECRETARY MARSHALL

U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

MAY 22 1979

Honorable Warren G. Magnuson
Chairman, Subcommittee on Labor,
Health, Education and Welfare
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your May 2, 1979, letter asking for additional information on the Department's request to reprogram $75 million for the Private Sector Initiative Program (PSIP). The enclosed allocation runs show the requested distributions of funds using the variables of level of funding and number of prime sponsors as follows:

Distribution A provides a listing of the 460 prime sponsors with allocations of $75 million in FY 1979 and $325 million for FY 1980. This listing is annotated to show the 164 prime sponsors that have (as of May 15, 1979) Private Industry Councils (PIC's) completely formed, the 224 prime sponsors that are expected to have PIC's established within 30 days, and the prime sponsors that have not made sufficient progress to establish PIC's within 30 days.

Distribution B allocates $75 million only to the 164 prime sponsor jurisdictions that have PIC's that are completely formed.

Distribution C allocates $75 million to the prime sponsor jurisdictions that have PIC's completely formed plus those that would likely be ready within 30 days, a total of 388 prime sponsors.

It is the Department's position that any allocation of funds should be made to all prime sponsors in accordance with the legislation. Section 702 (a) of the law states that, "The Secretary shall provide financial assistance to each prime sponsor designated under Section 101 (C) ..." (emphasis added). Although every prime sponsor probably will not have completed all preparatory steps for receiving allocations, such as forming a PIC and involving the PIC in the development of the Title VII plan, the Department believes that allocations should be computed for all primes. Funding would then be distributed when all preparatory requirements were fulfilled.

The Department's position is based on several factors. First, while we can identify at this time those prime sponsors that have established PIC's and can predict which are likely to do so in the near future, we cannot accurately predict which prime sponsors would have PIC's established at the unknown point in the future when funding would be made available. Every indication is that once information is available that funding has been approved, those prime sponsors that have not established PIC's will move quickly to do so. Secondly, if funds are allocated only to prime sponsors judged to be ready to submit plans, the balance of the prime sponsors would undoubtedly cutail or even stop their activity relating to PSIP and PIC formation. It would be most beneficial to the program and to potential participants to include all prime sponsors in early program startup. We would lose credibility and the momentum of the program that we have built up over the past year if we were to limit the number of participating prime sponsors.

You also asked how much of the remaining of $65 million held in reserve would be earmarked for welfare demonstration projects and consortia bonuses as well as the total amount to be made available for those bonuses in Fiscal Year 1979. A total of $25 million has been set aside for welfare demonstration projects.

With respect to consortia bonuses, we originally set aside $17.6 million of the excess PSE funds, which together with $12.4 million from Title II A, B and C funds would provide a total of $30 million for the bonuses. However, it came to our attention that in using PSE dicretionary funds (Title II-D) for consortia bonuses, prime sponsors would be restricted to serving only those participants who qualify under Title II-D criteria. Therefore, we made a budgetary adjustment, in which we charged $17.6 million attributable to Governors' linkages under Section 202 (d) to Title II-D funds thus making available $17.6 million of additional Title II A, B, and C funds for consortia bonuses.

I hope that this information will enable you to respond favorably to our reprograming request.

Sincerely,

Ray Marshall

LETTER FROM SENATOR MAGNUSON

May 24, 1979

Honorable Ray Marshall
Secretary of Labor
Washington, D. C. 20210

Dear Mr. Secretary:

Thank you for responding to the request for information Senator Schweiker and I sent you concerning your proposed Private Sector Initiative reprogramming.

We have no objection at this time to reprogramming $75 million, as you requested, for the Private Sector Initiative Program.

Allocation of the $75 million should be computed for all prime sponsors, according to the formula in the law. However, each prime sponsor should complete all the preparatory steps specified in the legislation, most basic of which is formation of the Private Industry Council, before getting its formula share of the $75 million. It is not only sound management to withhold funds from those jurisdictions that are not ready to utilize the money, but could serve as an incentive for those prime sponsors that have not yet established Private Industry Councils to quickly do so.

For the balance of fiscal year 1979, please submit monthly reports indicating which prime sponsors have received funding and the status of the remaining prime sponsor jurisdictions with respect to developing their private sector initiative programs. These reports should include both obligation and expenditure totals against the $75 million available. If it appears that some prime sponsors will not be ready to receive private sector initiative money during fiscal year 1979, we urge you to consider developing a reallocation plan so that available resources would be used on a more timely basis. Eventually, when additional fiscal 1980 appropriations become available, adjustments could be made to assure that any reallocation of funds does not deprive prime sponsors of money to which they otherwise would be entitled by the formula requirements of the law.

We certainly hope that the Private Sector Initiative Program is a resounding success and does not suffer from undue lag in obligation and expenditure of available funds. To help achieve success, we expect that every effort will be made to involve small and medium sized businesses in the Private Sector Initiative Program where the vast majority of new jobs with upward mobility potential are being created.

The ultimate success of this program depends upon how many enrollees are eventually hired by private industry into permanent, unsubsidized jobs. We, therefore, encourage you to thoroughly explore the best possible means for assuring that participants in the Private Sector Initiatives Program are placed in unsubsidized employment following their period of subsidized on-the-job training.

We are taking no action at this time with respect to the amount of fiscal 1980 appropriations for PSIP activities, for which $325 million is requested.

Sincerely,

RICHARD S. SCHWEIKER
Ranking Minority Member

WARREN G. MAGNUSON, Chairman
Labor-HEW Appropriations
Subcommittee

CONCLUSION

Senator EAGLETON. Well, let me say this in a brief conclusion.

Secretary Marshall, I think you made a very able presentation. I don't minimize the difficulty of the work that is assigned to you as Secretary of Labor under these various CETA programs.

The statistics are almost mind-boggling, the numbers of people that you have to deal with, not only the prime sponsors but the deliverers, et cetera. It is complex, and your problems have not been made easier by the Congress, in the sense that we have authorized this wide variety of sometimes overlapping and duplicative programs that fall to your lot to try to administer.

However, we are anxious to have your recommendations, as I said earlier, as to how we can bring a better sense of order out of all of this. And we are keenly interested in the initial subject matter that we explored at great length this morning, problems relating to fraud and waste and mismanagement. We know that isn't simple when you are dealing with millions of individuals and thousands of groups and organizations.

We also would agree with you that preventive medicine is even more beneficial than a retrospective or retroactive course.

However, there has to be a balanced effort both to prevent future waste and mismanagement and fraud, and a maximum effort to detect and apprehend after the fact, if not all that is cleaned up with preventive techniques.

And as I said to Mrs. Knowles, she is very new to the position; not officially sworn in. Under normal circumstances we might say, we will wait a year and hope that in a year you will be better grounded in the job. We can't wait a year. These programs are too vast, the dollars involved are too many, to permit a year to go by of just benign oversight.

And I think Mrs. Knowles will be giving it her fine talents.

I think Senator Chiles—maybe it was in connection with the Orlando matter, but he was quoting Assistant Secretary Green to the effect that all of the CETA programs were maybe in a degree of jeopardy by reason of the fact that there had been so much criticism of them by the press and GAO and by our own internal departmental reports and what have you; that if all of those things continued to fester and to multiply, the day might come when Congress may say, let's just scrap it or part of it.

We are dealing with a very important spectrum of society, the structurally unemployed and almost indigeneously unemployed individuals. And it would be a shame for the Government to back out of this very important area because the public feels that these programs are not being adequately administered.

I know you don't want to back out and we don't either. We share a common purpose. I know that you, Mr. Secretary, have devoted an enormous amount of your time to CETA matters, and I know you take your responsibilities very, very seriously. You are an able person and the committee has full confidence in you.

We just hope that the record of surveillance on waste, fraud and mismanagement, now that you have an Inspector General's Office in place, will be an even better record.

SUBMITTED QUESTIONS

Additional questions relating to previously cancelled hearings will be submitted for answers in writing.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

OLDER WORKERS PROGRAM

Question: The Older Workers Program provides for fewer jobs than do the programs under CETA. In fiscal year 1978, there were 47,500 job positions under the Older Workers Program while more than 95,000 persons age 55 and older participated under CETA. How could CETA programs and the Older Workers program be integrated to augment one another for the benefit of older workers?

Answer: Forcing a merger of the Senior Community Service Employment Program (SCSEP) into the State and local CETA delivery system would not result in improvements in our provision of employment-related services and opportunities to older people. However, the close coordination of SCSEP projects with CETA programs and other welfare and human resource programs is extremely beneficial at the local level. The Federal regulations that govern the SCSEP call for the project sponsors to take initiative in developing cooperative working relationships with local CETA and State Employment Security Agencies, as well as with other agencies that contribute to the well-being of older people in the community. Our SCSEP project sponsors also submit their grant applications through the State and area-wide clearinghouse system that has been established under OMB Circular A-95. Perhaps the most important point to make here is that the SCSEP should be coordinated, as it now is, with a number of major service delivery networks and that the working linkages are best forged at the local and not the national level. Forcing the SCSEP into one or another of the primary service delivery networks (e.g., CETA, welfare, and the network of State and area agencies on aging) would diminish its ability to link with all of these networks at the local level.

Question: What benefits are there in keeping these programs separately administered, and with separate functions?

Answer: The separate administration of the two programs better insures that more attention and direction is provided programs for the elderly--which is especially important in view of the Congress' keen interest in the elderly as a rapidly growing segment of our population. It also permits organizations with special concern for the elderly to participate in a leadership role in the employment and training field.

Question: The 1978 Older Americans Act amendments defined the low-income eligibility criteria as 125 percent above the poverty level rather than the poverty level, thus broadening the number of potentially eligible persons from 5 million to 8 million. What measures are you taking to assure that sponsors provide jobs for those most in need?

Answer: We are taking two measures. First, the regulations that govern the Senior Community Service Employment Program require that project sponsors give priority to those whose economic needs are particularly severe when they select individuals for enrollment in the program. Second, adjustments have been made in our reporting system which will allow us to monitor the numbers of near-poor as compared to the numbers of economically disadvantaged (as that term is used in its technical sense) who are enrolled in the program.

Question: In light of the current emphasis on restricting government expenditures, do you feel resources would be better utilized if more jobs for the elderly were designed for reentry into the nonsubsidized labor market?

Answer: The Department agrees that more emphasis needs to be put on assisting enrollees to find employment in the nonsubsidized market. Toward that end, the program's transition goal has been increased from 10 to 15 percent for each program year, beginning July 1, 1979. (Current experience is approximately 11%). Further, sponsors have been directed to establish better linkages with CETA sponsors, State job service agencies (some enrollees work at job service offices), and with other appropriate agents in the community in order to provide added employability and job placement services. Nonetheless, we continue to believe that for many of the elderly, either because of age, physical condition, labor market constraints, and attitudes, it may be unreasonable to expect or require a transitioning arrangement to the nonsubsidized market.

Question: I understand two new national grantees have been funded for this program. Will the addition of these grantees cause a reduction in the funds awarded to the exisiting five national grantees?

Answer: No. The addition of three, not two, new national sponsors was done utilizing the Fiscal Year 1978 appropriation. The added capacity for growth was not built into the program at the expense of the original five sponsors. In fact, their own programs increased substantially during Fiscal Year 1978.

Question: Will any of the established five national grantees close any existing projects? If so, have any provisions been made concerning the participants in these projects?

Answer: No. The five national sponsors did not have to close existing projects because of the above cited situation.

Question: Has Labor implemented any procedures to try to achieve an equitable distribution of Older Americans job slots throughout a State?

Answer: Yes, we have directed all of our sponsors to assess their intrastate distribution of jobs and as appropriate, make adjustments over a three-year period.

Question: The 1978 amendments of the Older Americans Act require the Commissioner on Aging to coordinate programs under the Administration on Aging with other Federal programs impacting on the lives of the elderly. To what extent do you feel participants under the Older Workers program should be assigned to Older Americans Act programs, such as nutrition projects and area agencies on aging?

Answer: We encourage our sponsors to develop work assignments for their enrollees in local agencies whose principal aim is to improve the well-being of older people in the community, including agencies funded under other titles of the Older Americans Act. However, we do not believe that our program resources should supplant those which are available from other sources nor that all of the work assignments should be in agencies concerned primarily with services to the elderly. We find that many enrollees prefer work assignments where they deal with persons in younger age groups or in all age groups. Also, limiting the work assignments to a small assortment of community service agencies diminishes the prospects that the enrollees will eventually be picked up on the agencies' regular unsubsidized payrolls.

OLDER WORKERS SUPPLEMENTAL

Question: How soon will you need the requested $8,900,000 Older Americans supplemental to avoid a cutback in the current enrollment level?

Answer: We would need to obligate supplemental funds to grantees by no later than January 1, 1980, in order for them to sustain their current level of effort and to avoid program disruptions.

Question: Will these supplemental funds be sufficient to provide 47,500 jobs for elderly persons, at the new minimum wage, without reducing hours of work?

Answer: Yes. The supplemental of $8.9 million will permit the continuation of 47,500 jobs at the new minimum wage without reducing hours of work.

Question: What is the status of your appeal of the Treasury Department's interpretation of the continuing resolution--which, if you prevail, would make this supplemental unnecessary?

Answer: The Comptroller General of the United States has determined in his decision of May 4, 1979, that "the term "current rate" of operations as used in continuing resolutions is equivalent to the total funds appropriated or available for obligation for an activity during the previous fiscal year. The 1979 continuing resolution appropriates only the total of appropriations for the Older American Community Service Employment Program during fiscal year 1978, despite the fact that an increase in the federal minimum wage will force a reduction in the number of persons employed by the program."

The decision further states that the Older American Community Service Employment Act does not mandate any particular number of jobs, and a Fiscal Year 1979 supplemental appropriation will be required if the 47,500 job level is to be maintained.

UNIVERSE OF NEED FOR ELDERLY JOBS

Question: How many persons aged 55 and over are not just eligible for the Community Service Employment for Older Americans Act program, but are really in need of a job?

Answer: This is a question that cannot be answered with any degree of precision. There are about 8 million people in this country who meet the programs eligibility criteria which relate to age and family income. Of these, we estimate that roughly 20 percent are not physically or mentally able to work. Of the remaining six million, we believe that there is a substantial percentage who would take part-time employment if it is offered to them. This belief is borne out by the fact that the program fills its vacancies promptly with only minimal outreach efforts.

Question: How long is the waiting list for enrollment?

Answer: Because we purposefully kept the reporting system as simple and streamlined as possible, data is not collected on the number of persons who have applied for and are awaiting enrollment. However, anecdotal information from project sponsors suggests that there is a very healthy demand for these jobs at the local level and that nearly all of the new enrollments are made off waiting lists rather than through active outreach efforts. It has been our experience that active outreach efforts are needed to reach capacity only during periods of substantial program expansion.

STATE/NATIONAL ADMINISTRATION OF JOBS FOR THE ELDERLY

Question: In accordance with the "hold harmless" clause contained in the 1978 Older Americans Act amendments, national contractors will be funded at a level sufficient to maintain their FY 1978 level of activity. The dollar amount appropriated above the FY 1978 level of activity must be distributed so that the States receive 55 percent and the national sponsors receive 45 percent of the allotment. With the possibility there may be a larger appropriation, how have you prepared State governments for their larger role as project administrators under the Older Americans Act jobs program?

Answer: First, it is difficult to anticipate a larger role for either the national or the state sponsors during Fiscal Year 1980 or Fiscal Year 1981. We say this in the context of the President's goal to keep the Federal budget as lean as possible. However, even if the appropriation level were to equal the authorization level, utilizing proven recruitment techniques, experience, and waiting lists, we would be readily able to build their projects up to new authorized levels in a relatively short time. During the current program year we have conducted workshops for participating state sponsors on fiscal management, general program administration and program monitoring.

Question: How will national sponsors integrate their jobs for the elderly efforts with State governments?

Answer: As required by the new Section 502(d)(1), national sponsors will be required to submit to the state agency on aging a description of their projects 30 days prior to undertaking the project. Thus far in this current review process we are highly pleased and encouraged that national sponsors are coordinating their proposed activities with the State sponsors and that cooperative arrangements have developed. In addition, the A-95 process is utilized to further insure that State units of Government are apprised of emerging SCSEP projects.

OLD TITLE X JOBS FOR ELDERLY PROGRAM

Question: How many enrollees under the old Economic Development Act Title X program will still not be absorbed into the Older Americans Act Title V program by the end of Fiscal Years 1979 and 1980, respectively?

Answer: We estimate there will be between 3,000 and 3,200 enrollees remaining in the "Title X" projects by the end of Fiscal Year 1979. By Fiscal Year 1980 we expect that figure will be reduced through attrition, to approximately 2,500 or less. This assumes, of course, that resources will be available to extend these projects beyond the current fiscal year.

Question: Do you plan to continue supporting these jobs with Secretary's discretionary funds until they can be absorbed, through attrition, into the new Title V Older Americans Act program?

Answer: Yes, assuming the availability of resources--at least through June 30, 1980 or possibly September 30, 1980.

IMPACT OF LABOR DEPARTMENT REORGANIZATION ON OLDER WORKERS

Question: In connection with the proposed reorganization, what are your specific plans for the administration of the older worker program under Title V of the Older Americans Act?

Answer: The reorganization will not disturb the present arrangements for administering older worker programs. However, there are plans to considerably strengthen our organizational capability to address older worker concerns. Consideration is being given, for example, to the establishment of an Office of Older Worker Programs within our Office of National Programs.

Question: How many people work more or less full time in administering special programs for youth under CETA?

Answer: Approximately 361 Federal staff administer the Summer Youth Employment Program, the Job Corps and the Youth Employment and Training Programs.

Question: What is the comparable number for older worker programs?

Answer: Eight staff members; six professionals and two clericals, administer this program.

Question: Do you intend to upgrade the administrative capability of the staff that administers older worker programs?

Answer: Yes. Even though the Employment and Training Administration is undergoing extensive reductions in its staff ceiling, we are giving very active consideration to upgrading the capability and the organizational position of the staff unit which administers the Older Americans Program and CETA older worker projects.

FRAUD AND ABUSE

Question: How many positions have been allocated to the Employment Service and prime sponsors to control illegal CETA payments?

Answer: The Employment Service does not have a role to play in monitoring CETA payments and no positions are assigned for this purpose.

There are about 5,000 positions nationally in Prime Sponsor independent monitoring units with CETA monitoring responsibility. These new units set up under the new CETA legislation should greatly strengthen CETA monitoring.

Question: Why are there so many less people checking CETA Fraud and Abuse, even though this program now spends just as much as the unemployment insurance program?

Answer: While it would always be useful to have additional federal CETA monitoring capability, it is believed that the establishment of independent monitoring units within CETA prime sponsors will greatly strengthen the total CETA monitoring effort. There will be approximately 5,000 positions in the CETA independent monitoring units.

MANAGEMENT INFORMATION SYSTEMS

Question: GAO stated in July 1978 that existing management information systems did not provide prime sponsors with data on: (1) the success participants had in getting jobs in skill areas for which they were trained; (2) how long they kept their jobs; (3) the cost of training programs; and (4) why participants left the program or did not obtain employment. Does your management information system now provide prime sponsors with the information GAO found lacking last year?

Answer: The GAO report cited was based on a sample of 12 CETA primes (out of 460). Its findings were that generally the management systems operated by those primes provided inadequate data in the areas listed. The report's recommendation was that the Secretary of Labor take a stronger and more active Federal oversight role to insure that prime sponsors design management information systems (MIS's) to provide data in these questioned areas.

In answer to the specific question as to whether prime sponsor systems now provide such information: Many of them now do; others do not.

In response to the recommendation in the GAO report for the Secretary to take a stronger oversight role: The Department has developed and begun action on a long-term program to help prime sponsors develop an improved management capability and to respond to the added reporting requirements of the CETA reauthorization legislation.

Before initiating the program we conducted a nationwide survey of all 460 prime sponsors to determine their ability to significantly improve their MIS's. Results showed that the great majority of sponsors were using manual reporting systems. On the other hand, it was obvious that in order to meet the additional reporting and informational requirements, all but the very smallest of the primes would have to automate. The action plan developed by the Department is focused on providing technical assistance in helping primes automate their data systems. Some steps in the program include:

1. Development of a functional MIS to use as a standard in evaluating primes' MIS's. This evaluation will identify areas where specific sponsor MIS's need strengthening.

2. The Employment and Training Administration (ETA) will work with primes to develop local capabilities that will meet the functional MIS standards.

3. ETA is in the process of identifying, documenting, and disseminating information about the best existing prime sponsor MIS's that may be transferrable to other prime sponsors with similar needs.

4. ETA is soliciting prime sponsor test sites for the development of different approaches to MIS needs (e.g., minicomputers, services bureaus, data base management, etc.)

5. As a result of activity in 3 and 4 above, we will have a "menu" of systems to offer primes to meet their specific local needs and will provide technical assistance to help them implement the system of their choice.

The program outlined above is broad and comprehensive and with the needed development efforts will take 3 to 4 years to fully implement.

As a final comment, one area cited by GAO was the need for data on how long CETA participants kept their jobs after placement. Follow-up information is not required by the legislation and we cannot mandate that it be reported by prime sponsors. We are recommending that it be included in the primes' MIS designs and will include follow-up systems in the model MIS's we will provide.

PRIVATE SECTOR INITIATIVES

Question: You recently requested that $75 million be reprogrammed from excess CETA funds, to initiate the Private Sector Initiatives Program. Have you previously let the Committee know that you had a special CETA reserve of $140 million, from which you now propose using $75 million for Private Sector Initiatives?

Answer: The $140 million is not a "special CETA reserve"; it is Secretary's discretionary funds, as provided in Sections 233(d)(2) and 604(b)(2) of the Act. We have not previously discussed the use of these discretionary funds with the Committee. In accordance with the previously cited legislation, the $140 million of PSE funds had been set aside for possible allocation among prime sponsors whose Areas of Substantial Unemployment were incorrectly or inadvertently omitted by State agencies, to correct errors which may have occurred in the initial allocations, and to provide for other contingencies. However, the amount needed for these purposes was not as great as anticipated leaving a balance of $75 million for reprogramming to the Private Sector Initiatives Program in Fiscal Year 1979.

Question: Are there any other CETA funds being held in reserve?

Answer: As indicated, there is no "special CETA reserve." Additional Secretary's discretionary funds are provided by Section 202(f) of the Act, however. Also, funds are provided under Title III for Special National Programs and Activities, and under Title VI for Secretary's Discretionary Projects.

Question: Why have you changed your mind since your testimony in February when you indicated it was essential to have one lump sum appropriation of $400 million for the first three years of operation?

Answer: We have not changed our mind regarding the necessity of the $400 million appropriation for Private Sector Programs which is to be spent over the first full three years of operation of the program. However, we understand that there is little chance that the $400 million supplemental requested for Fiscal Year 1979 will be considered this year because of considerations unrelated to the merits of the program. Therefore, in order to have the program become fully operational during the last quarter of Fiscal Year 1979, we have re programmed $75 million of Secretary's discretionary funds for this purpose. We have also modified our 1980 budget request to include the remaining $325 million requested for Private Sector Programs.

Question: Senator Magnuson and Senator Schweiker sent you a letter asking for further information about your proposal to reprogram $75 million for Private Sector Initiatives. I'll put the letter in the hearing record. Hopefully, your response will be in time for inclusion in the printed record as well.

Answer: This information was provided to the Senators on May 22, 1979.

BUDGET AMENDMENT FOR NATIONAL PROGRAMS

Question: You recently submitted a budget amendment to restore $45 million for national programs. If approved by Congress, how do you propose to allocate the additional $45 million?

Answer: The plan for allocating the $45 million has not been finalized. The plan will be submitted to the Committee when completed.

Question: Will this budget amendment be sufficient to avoid cutting any existing contracts with labor unions?

Answer: If the budget amendment is approved, there will be little if any need to cut existing training contracts with labor unions on account of inadequate obligational authority. However, there may subsequently be cause to reduce funding for individual contracts for programmatic reasons. In other words, it cannot be assured that each of these contracts will be renewed in Fiscal Year 1980 at their respective Fiscal Year 1979 levels.

Question: While the bulk of this money appears directed toward union training programs and community based organizations such as OIC, what exactly will the $6 million earmarked for "essential program support" be used for?

Answer: The plan for allocating the $45 million has not been finalized. The final plan will be submitted to the Committee when completed.

INDIAN AND NATIVE AMERICAN PROGRAMS

Question: How is the level of technical assistance and training funds allocated for support of Indian and Native American programs determined by the Department?

Answer: The Department, through its Office of Field Operations, determines the priorities for allocating technical assistance and training (TAT) funds. All offices are given the opportunity to comment on a proposed allocation plan. Each office is given a target figure upon which to plan, usually based on the previous year's allocation. The Division of Indian and Native American Programs' (DINAP) TAT level is included in the target figure for the Office of National Programs. DINAP's TAT level for Fiscal Year 1979 worked out to be $260,000. This entire process of determining levels of TAT is currently being reviewed.

Question: What immediate steps are being taken by the Department to provide technical assistance to Indian and Native American program sponsors to help them meet the new statutory requirements to prevent fraud and abuse? What is the average level of such assistance available per program sponsor?

Answer: All TAT funds at present are allocated to Native American grantees through their own regional associations. They may target a certain part of their allocation on TAT for fraud and abuse if they so desire. However, considering the many TAT needs they have, relatively little is being used for fraud and abuse. The average level of total TAT assistance to each Native American grantee amounts to approximately $1,300.

DINAP is currently reorganizing to make as many of its staff as possible available to work directly in grants management, and thus be able to provide TAT to Native American grantees in such areas as fraud and abuse.

Instructions are currently being disseminated to all Native American grantees that they should favorably consider contracting with a CPA firm for assistance in bookkeeping and financial management records keeping. This is an allowable administrative expense to the grant. Such action will deter recurrence of past problems in these areas experienced by the less sophisticated grantees.

Other instructions recently published and distributed by DINAP include one in which certain fiscal problems have been described and remedies provided. In addition, DINAP recently distributed to all grantees, updated versions of Federal Management Circular 74-4, Cost Principles Applicable to Grants and Contracts with State and local Governments and OMB Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to State and local Governments.

Question: What immediate steps are being taken by the Department to assist eligible Indian tribes and native Hawaiian and Alaskan organizations to design and implement private sector initiative programs? What is the average level of such assistance available per eligible program sponsor?

Answer: The Division of Indian and Native American Programs was provided $250,000 in Title III discretionary funds to be used by Native American grantees to establish Private Industry Councils (PIC's) which are a requirement of the program, and to design their program. Considering the number of eligible grantees, a $2,000 planning grant was provided to each one out of this allocation.

Other technical assistance revolves around DINAP staff participating in Native American grantee workshops. Through this process, questions are answered directly. Additionally, research results from the Study of CETA Plans and Reservation Economic Development have been modified into a Native American Private Sector Initiatives Program Handbook, which has been distributed to all grantees.

Question: In the supporting information submitted to the Committee on the administration of national programs, the Department said (on page PA-21) that it would increase the amount of technical assistance provided to Native American and other national program sponsors. In explaining an estimated decrease in program administrative funds, the Department indicated (on Page PA-26) that it would reduce technical assistance provided to national program sponsors. Which course of action will the Department actually take?

Answer: The supporting information on PA-21 is the correct information. The Department will increase the amount of technical assistance provided to Native American and other national program sponsors.

PUBLIC SERVICE JOBS

Question: Do you feel prime sponsors will have trouble finding sufficient public service jobs opportunities at the lower wage levels which take effect April 1, 1979?

Answer: In order to meet their required average wage, many prime sponsors will have to undertake a significant redesign of their Public Service Employment program. Many prime sponsors, especially those with a mandated average wage of $6,635, have indicated that there are no jobs in city/county Government that pay $3.19 an hour (which equates to $6,635 a year). In those cases, job restructuring will be necessary, along with an intensive job development effort in the private non-profit sector where wage rates are generally lower.

Question: Are there some areas of the country where unemployment insurance or welfare payments will exceed the new, lower-average wage rates for public service jobs?

Answer: Several States have maximum unemployment compensation benefits which exceed the required average wage which has been set for the prime sponsors in the State. It appears that this situation occurs most frequently in Colorado, Connecticut, Delaware, Hawaii and Ohio, and to a lesser extent in some other States.

Specific comparison of welfare payments to the CETA average wage rates of different areas is difficult due to the fact that maximum payments vary considerably from State to State, just as CETA average wage rates vary from prime sponsor to prime sponsor within each of the various States. It has been pointed out, however, that once taxes are removed from the lowest CETA average wage of $6,635, the spendable portion would amount to only $357 to $408 a month. This, in general, can be related to AFDC payments for a family of four of $337.63 in Connecticut, $376.09 in New York, $351.09 in Michigan, and $318.90 in California (data from Public Assistance Statistics, October 1978, published by the Social Security Administration, March 1979). These payments are, of course, tax free. Due to the variation among States with regard to welfare payment distribution, it is possible that in certain cases payments would exceed the CETA average wage for the area. A more specific, detailed, area by area, analysis, however would require more time for completion.

Question: To what extent will the lower public service jobs wage rates turn the program into a low-skill clerical and "leaf raking" operation — effectively eliminating such categories of work as health aides, recreation leaders, sanitary aides/rat control, and planning aides?

Answer: The purpose of establishing an average wage for all public service employment jobs of $7,200 per year was to limit the types of jobs which could be funded to those which are commensurate with the skills and abilities of the individuals which CETA is intended to serve. Many of the "aide" or "trainee" positions such as health aides, sanitary aides, etc. will be able to be funded given the new average wage requirements. In some areas, however, where the average wage is $6,635, prime sponsors may experience difficulty in locating PSE positions of any kind with city or county governments at $3.19 an hour.

The lower wage rates will not turn the program into a "leaf-raking" operation. The jobs to be funded must provide the participants with meaningful job skills. In addition, since prime sponsors are now required to spend a certain percentage of their PSE funds (10% this year) on training for PSE participants, PSE participants will receive training above and beyond that previously provided to enable them to transition into unsubsidized employment.

WAIVERS ON PUBLIC SERVICE EMPLOYMENT

Question: I understand that the Department is currently formulating its policy on waivers of the 18 month limit on public service employment. This is obviously a critical one for the whole new approach to CETA.

I would therefore appreciate it if you would share a draft of your policy with this committee and its staff before you publish it as a proposed regulation or field memorandum, so that we can comment on it.

Answer: The Department met with the Committee in the latter part of May to discuss and receive comments on the draft waiver policy issuance. Their comments were incorporated into this issuance, which is awaiting final Departmental clearance. A copy of the field memorandum will be forwarded to the Committee when it is available.

FORWARD FUNDING

Question: Why didn't the Labor Department request that the CETA program be forward funded, like education programs?

Answer: We are now in the process of discussing this issue with the Office of Management and Budget. We are trying to carefully determine both the advantages and disadvantages of forward funding CETA programs.

Question: How much forward funding would be necessary -- 6 months or 12 months -- to allow CETA sponsors enough lead time to plan effective programs and prevent serious underspending?

Answer: Prime sponsor plans are developed annually. Therefore, forward funding for a 12-month period would seem to be appropriate.

Question: To what extent do you think forward funding would prevent a repeat of the current situation, in which CETA project sponsors are simply not spending available funds?

Answer: Forward funding would alleviate underperformance by prime sponsors caused by delays in appropriations and doubt over the level of funding. However, it would not solve underperformance problems caused by changes in program design and new legislative requirements, both of which have also had an impact on the current underperformance situation.

YOUTH UNEMPLOYMENT

Question: To what do you attribute the fact that unemployment of black teenagers has remained over 30 percent, despite multi-billion dollar CETA programs aimed at reducing youth unemployment?

Answer: Although youth unemployment, particularly among minorities, continues to be a serious problem, tremendous gains have been made as a result of the multi-billion dollar commitment to youth employment problems. New youth jobs developed with this money represent one-third of all employment growth for 16-19 year olds, nearly 100 percent for nonwhite 16-19 year olds. When comparing March of 1978 to March of 1979, nonwhite 14-21 year old youth employment has increased from 1,175,000 to 1,273,000. The unemployment rate for the same group has gone from 33.7% to 28.4%. The fact that the unemployment rate has not been reduced further is due to the fact that many youths who had previously dropped out of the labor force and were therefore not counted in unemployment statistics, have returned to the labor market and are now looking for employment opportunities.

Question: How many minority youth are currently enrolled in CETA programs, and what level of enrollments is planned for Fiscal 1979?

Answer: The data provided for CETA Titles II A, B,C, II-D, and IV by the Department's official reporting system does not give a total of minority youth by age break. It does, however, give a total number served and the total of minorities served. In order to come up with an estimate for the first quarter of FY 1979, it is necessary to take the percentage of those served who are 22 and under and apply it to the total served. This results in a constructed projection of total minorities served who are 22 years old and under for Titles II A, B, C, II-D and VI.

	Total minority youth served as of first quarter FY 1979	
	Number	Percent of Title
Title II A, B, C	110,245	20%
Title II-D	9,595	7.1%
Title VI	41,279	7.7%
Title IV	168,465	63%
Title VIII (YACC)	9,803	27%
	339,387	

The Department expects the proportion of minority youth served in each Title to remain about the same for the remainder of FY 1979.

JOB CORPS ALLOWANCE

Question: How much would it cost for the budgeted 44,000 Job Corps slots to raise allowances to the levels recommended by the Job Corps Allowances Committee, as follows:

Living Allowances	
0 - 2 Months	$40 per month
3 - 6 Months	$60 per month
over 6 Months	$80 per month

Readjustment Allowances	
3 - 6 Months	$75 per month accrual
7 - 9 Months	$75 per month accrued for first 6 months; $100 per month for the 7-9 months
Over 9 Months	$100 per month accrual for each month in the program

Answer: The additional cost for increased Job Corps allowances at the 44,000 slot level (42,000 years of service) is estimated to be $36,800,000.

JOB CORPS

Question: How is the Job Corps program different from other youth employment and training efforts as far as the type of individual it is designed to serve?

Answer: The Job Corps program is targeted to serve those youth who are the most severely disadvantaged and who do not or can not normally participate in other CETA youth programs because of their lack of education, skill or motivation.

Other youth employment and training programs, in most cases, have economically disadvantaged as their only criteria. Job Corps has been established specifically for youth who are economically disadvantaged as well as living in an environment so characterized by cultural deprivation, a disruptive homelife or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education or assistance.

The Job Corps program, through its residential living and vocational skill building activities, attempts to provide a comprehensive approach to the multi-faceted and multi-dimensional problems of the participant. Job Corps' success is partially attributed to this approach rather than the traditional single purpose service provided by other youth programs. Job Corps' multi-dimensional approach provides for a coordinated integrative effort, thus applying a holistic approach to the youth's problems.

Question: How does Job Corps assure itself that Job Corps recruiters are considering Job Corps applicants for other programs?

Answer: The primary source of recruitment effort for the Job Corps program is the State Employment Security Agencies. Since nearly all youth programs depend primarily on the State Employment Security Agencies for either recruitment, screening or certification, it is reasonable to assume that the eligibility criteria for each program is the determining factor for the selection of youth into a specific program.

Private screener organizations, e.g., Women In Community Service, Inc., (WICS) and AFL-CIO Appalachian Council have a contractual obligation to coordinate with other youth-serving agencies and other Employment and Training Administration programs, and to refer youth found to be unsuitable or unqualified for Job Corps training to these agencies for possible inclusion in other youth training programs.

Question: What procedures have been established to enable recruiters to assess which of the large variety of training programs can best serve an applicant's needs?

Answer: Job Corps, as well as other CETA youth programs, has issued various field memoranda establishing procedures for the referral of youth into the Job Corps programs. These procedures enable CETA youth programs at the local level to refer youth to the Job Corps program if they determine that he/she will be better served and benefit from the Job Corps program. Additionally, it is necessary to reiterate that the primary recruitment source for Job Corps is the State Employment Service whose personnel are most knowledgeable of the benefits and requirements of all CETA youth programs.

Question: What was the Job Corps drop-out rate for Fiscal Year 1978, compared to Fiscal 1977?

Answer: The Job Corps 30-day loss rates for Fiscal Year 1975 - 1978 were:

Fiscal 1975 - 27.4 percent
Fiscal 1976 - 23.7 percent
Fiscal 1977 - 20.0 percent
Fiscal 1978 - 20.9 percent

Measures taken in Fiscal Years 1976 and 1977 resulted in major reductions in the drop-out rates. The new Advanced Career Training program, which began in mid-Fiscal 1978, continues to make a positive impact on retention during the first half of Fiscal Year 1979. Since relatively few participants had terminated from that program by the end of Fiscal Year 1978, the Fiscal Year 1978 figure was adjusted to make it comparable to the prior years.

Question: What actions has the Department of Labor taken to implement the recommendations concerning the management and efficiency of the Job Corps that were contained in the hearing record on the Woodstock, Maryland Job Corps Center and in the House Report on the 1978 CETA Amendments, i.e., whether to provide the Job Corps Director with (1) contracting authority; (2) direct line authority over regional Job Corps policies, field directives, staffing levels, and personnel; and (3) the authority to independently monitor and review center operations?

Answer: An Employment and Training Administration task force recently concluded a series of deliberations regarding revised roles and responsibilities for the Job Corps Director.

Major recommendations of the task force include providing the Director of Job Corps with (1) contracting authority; (2) direct line authority over regional Job Corps policies, field directives, staffing levels and senior personnel; and (3) the authority to independently monitor and review center operations. Implementation directives of these and other recommendations are presently underway.

NEW JOB CORPS CENTERS

Question: How many Job Corps centers are currently in operation, and how many do you expect to have by the end of Fiscal 1980?

Answer: As of May 14, 1979, there are 78 Job Corps centers currently in operation, and by the end of Fiscal 1980, it is expected that there will be 111 Job Corps centers.

Question: Where will the new centers be located?

Answer: The new centers will be located in the following places:

Bangor, Maine
Grafton, Massachusetts
Vergennes, Vermont
Bronx, New York
Callicoon, New York
Oneonta, New York
Aguadilla, Puerto Rico
Port Deposit, Maryland (2 centers)
Birmingham, Alabama
Tuskegee, Alabama
Gainesville, Florida
Brunswick, Georgia
Prestonsburg, Kentucky
Batesville, Mississippi
Bamberg, South Carolina
Knoxville, Tennessee
Joliet, Illinois
Benton Harbor, Michigan
Flint, Michigan
Grand Rapids, Michigan
St. Paul, Minnesota
Donaldson, Indiana
Little Rock, Arkansas
Shreveport, Louisiana
Roswell, New Mexico
Laredo, Texas
Denison, Iowa
St. Louis, Missouri
Tucson, Arizona
San Diego, California
Reno, Nevada
Kodiak, Alaska

Question: With 70 percent of Job Corps enrollees currently being males, are you planning to increase emphasis on enrollment of females?

Answer: Yes, we are planning to increase emphasis on enrollment of females. Job Corps' current policy is that 50 percent of all input to new centers will be women. However, the backlog of 10,254 applicants indicates that the ratio is still running 82 percent male and 18 percent female.

YOUNG ADULT CONSERVATION CORPS

Question: I understand that 6 percent of the State Grants Young Adult Conservation Corps program is being diverted for administrative costs by the Interior and Agriculture Departments. What legal basis is there for diverting these youth program funds for administration?

Answer: In so far as the Department of Labor is concerned, there is no legal basis for withholding the 6 percent from the State Grant Program, based upon our Solicitor's decision of June 15, 1978.

The U.S. Department of the Interior and U.S. Department of Agriculture, however, are basing their position on an opinion from the Department of Agriculture's Comptroller General.

We have informed the U.S. Department of the Interior and the U.S. Department of Agriculture of the Department of Labor Solicitor's opinion.

YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Question: By law, youth aged 14-21 are eligible for enrollment in the Youth Employment and Training Program. How many enrollees are currently age 14?

Answer: Since the Department's official reporting system gives a 14-15 year-old age break (and not uniquely a 14 year-old line item break), we know that 33,505 14-15 year-olds, or 11.3 percent of total, were served in the Youth Employment and Training Program (YETP) in 1978. In the 1st quarter of Fiscal Year 1979, 20,922 14-15 year-olds, or 12.3 percent were served in the Youth Employment and Training Programs.

Question: In view of your plan to eliminate participation of 14 year-olds from the Summer Youth Jobs Program, will a similar effort be made to keep youth under age 15 out of the Youth Employment and Training Program?

Answer: There are presently no plans to eliminate the participation of youth 15 years old. In fact, it is anticipated that additional 14-year-olds will be served in the Youth Employment and Training Programs, thereby increasing their potential for employability.

Several studies of youth who leave school to enter the labor market indicate that the major reason teenage youth do not successfully remain in jobs is mainly their inability to relate to supervision and their lack of understanding of the structure and opportunities of the labor market. Youth that are served in a year round work experience program will be better prepared to respond to the demands of a full-time employment situation.

Question: What are some of the "innovative and experimental approaches" which, according to your budget justification, characterize the Youth Employment and Training Programs?

Answer: In fiscal 1978, an ambitious agenda of demonstration, research and assessment activities was implemented. These efforts included a massive experiment with job guarantees as well as almost $100 million in action programs designed to yield information about what works best for youth. The aim of fiscal 1979 is to further advance and coordinate the research, evaluation and demonstration activities concerning youth employment and training. The extension of the Youth Employment and Demonstration Projects Act (YEDPA) programs through 1980 provides the time needed to develop more complex efforts and to follow up on short-term projects. The YEDPA plan for fiscal 1978 necessarily focused on the "first-order" questions which needed to be answered to design better national policies. Hindsight has suggested additional issues of great importance, while the continuation of the knowledge development mandate also provides an opportunity to address "second-order" questions — i.e., to explore the problems of significant segments of the youth population, to focus on specific service components to determine how each can be improved, and to further assess the comparative effectiveness of alternative delivery approaches.

The activities being funded represent an investment of nearly half a billion dollars. While almost all of these resources are used to provide quality services and employment opportunities to youth, and while they also are a mechanism for institutional change as well as for achieving equity, they have been carefully structured so as to yield much more than the usual information about what works for whom.

Am[illegible]he approaches being funded are private sector initiatives demonstr[illegible] projects, work education councils and large scale education entitlement voucher demonstration projects.

Examples of innovative projects which are testing the approaches include:

Youth Entrepreneurship Project — A Corporation for Youth Enterprises (CYE) was created with joint participation of the Department of Commerce's Office of Minority Business Enterprise and the Community Services Administration. CYE will support businesses run by youth in five localities, with YETP funds supporting wages of the young workers. The design period will last through fiscal 1978 with program operations beginning in fiscal 1979.

Private Sector Initiatives for Youth — This demonstration will carefully assess alternative techniques for involving the private sector in the employment and training of youth. A range of projects will be funded and studied.

The subject areas include job restructuring and job sharing, reducing transactional costs, youth entrepreneurship, involving businessmen directly in placement efforts, pre-employment services, elimination of barriers to employment, and wage subsidy alternatives. The varied projects are being coordinated and assessed by the Corporation for Public/Private Ventures. Program activities were initiated in the pre-employment services and enterpreneurship areas in fiscal 1978.

Work-Education Councils—The Department of Labor continued support of education and work councils established in 1976 in 33 local areas. The Office of Youth Programs (OYP) commissioned independent case studies of these councils in fiscal 1978 and worked jointly with the National Institutes of Education to develop a major study of the effectiveness of these councils in easing school-to-work transition.

School-to-Work Transition Demonstration Project—A set of alternative deliverers will provide transition services to high school juniors and seniors. The results will be carefully assessed to determine the comparative effectiveness of the deliverers, which are mostly community based groups, and the impact on economically disadvantaged youth of such services. The grants were signed and all projects will be operational in the 1978-1979 school year.

Service Mix Alternatives Demonstration Project--This project supports locally designed experiments which test the impact of work projects compared with those which combine work plus education, training and other services. Three projects were funded in fiscal 1978.

Question: On the average, how many hours does each youth work per week?

Answer: An in-school youth works 15 hours a week; an out-of-school youth works 35 hours a week.

YOUTH EMPLOYMENT AND TRAINING PROGRAMS/SUMMER PROGRAM

Question: How much of the $798 million budgeted for Youth Employment and Training Programs will be spent on activities during the summer months?

Answer: An analysis of the FY 1978 enrollment data indicates that an estimated 160,000 participants were served during the summer months in the Youth Employment and Training Program (YETP). The expenditures required to support this enrollment level would be a total of $131,000,000, or roughly 30 percent of the total available YETP formula funds. Applying a similar percentage calculation to the total FY 1980 YETP fund availability results in an estimated projection of approximately 250,000 YETP participants who will be involved in summer activities. Given the assumptions which have been announced in the FY 1980 President's budget that 14 year olds will not be served in the summer employment program, and the increased timeframe for planning, prime sponsors will be encouraged to design their 1980 YETP programs to devote a larger percentage share of YETP funds to summer slot development resulting in many additional youth served in the summer of 1980.

Question: How many of the estimated 164,800 enrollees in Youth Employment and Training Programs do you expect would also enroll in the Summer Youth Jobs Programs?

Answer: The phasing of program participation is a local decision and at present there is no data base upon which to make such a projection. However, beginning with the FY 1979 Summer Youth Employment Program (SYEP), concurrent enrollment data will be reported. Once received, the data will indicate the number of enrollees concurrently enrolled in Youth Employment and Training Programs (YETP), Youth Community Conservation and Improvement Projects (YCCIP), Summer and CETA Title-IIB during the summer months.

Question: What efforts have been made to coordinate the in-school component of the Youth Employment and Training Program to the Summer Youth Jobs Program?

Answer: The Office of Youth Programs efforts to encourage the coordination of activities between the Youth Employment and Training Program (YETP) and the Summer Youth Employment Program (SYEP) are shown in the individual program narrative applications as well as the applicable regulations.

The FY 1979 YETP grant narrative application instructions require a description of the relationship and linkages between YETP, Youth Community Conservation and Improvement Projects (YCCIP), SYEP, Job Corps and other CETA funded youth activities. The YETP regulations also reflect the requirements for program linkages.

The SYEP subpart narrative application for FY 1979 requests that the prime sponsors describe the linkages with other CETA titles and other youth programs. A description of the concurrent enrollment between SYEP and YCCIP, YETP and Title II youth activities is also required in the SYEP narrative. The SYEP regulations reflect the same requirements for program linkages.

SUMMER YOUTH EMPLOYMENT PROGRAM

Question: The CETA Amendments of 1978 added a provision to the allocation process that established a floor, or hold harmless level of funding, for prime sponsors at 100 percent of their allotment in the previous year. How does this new hold harmless provision affect targeting for the Summer Youth Program?

Answer: The hold harmless provision relates mainly to the amount of funds available to a prime sponsor the prior fiscal year. The following factors in the formula were used in FY 1978 to allocate available funds:

(a) relative number of unemployed persons (37.5 percent)
(b) relative number of adults in low income families (12.5 percent)
(c) relative proportion of previous years funds (50 percent)

Therefore, the hold harmless provision will continue to provide for a distribution of funds in relation to previously targeted allocations. The hold-harmless provision would have a major impact only in those local areas where a substantial shift in unemployment rates and family income factors occurred.

Question: To what extent will this change in the allocation formula result in continuing inequitable treatment, especially for non-urban areas?

Answer: The planning estimates issued to prime sponsors for the FY 1979 summer program do not represent a change as such. That is, given the limited resource availability, the stronger hold harmless provision of the law was applied. Because the hold harmless provision was applied to the 1978 allocation (which reflected the formula factors), the FY 1979 planning estimates target resources to the unemployed and low income family participant. However, continued use over time of the hold harmless approach will cause a dilution of the formula factor impact as local unemployment and low income family conditions change.

In order to target resources in the most effective manner possible, and to comply with the full intent of the Congress, sufficient resources must be available.

Question: What actions has Labor taken to insure that prime sponsors and their subcontractors are now providing meaningful work experience to youth enrolled in summer programs?

Answer: Actions by the Office of Youth Programs include a stronger comprehensive approach for monitoring the summer program. The area of emphasis is stressed in the regulations and grant application narrative. This year the Federal onsite reviews are focusing on targeting resources, service deliverers, worksites and monitoring during the planning phase as well as on operations. The 1979 summer strategy is to identify problem areas and deficiencies early during the review of planning and design activities and to correct those identified problem areas prior to operations.

The nature of work experience, though not yet to the desired level of quality, has substantially improved. A sample of plans from the FY 1978 program shows participant jobs as including plumbers aides, electricians aides, landscaping assistants, youth-tutoring-youth in remedial education skills, hospital assistants for the mentally and physically handicapped, and weatherization of low income housing, among others.

A book has been compiled entitled Summer Program for Economically Disadvantaged Youth (SPEDY) Monograph of 1978. These monographs exemplify a range of conditions and problems faced by prime sponsors and offer a variety of ideas and models for other planners and administrators.

Question: Since poor administrative controls seem to be a frequent problem in the Summer Jobs Program, has Labor taken any action to determine that the prime sponsors funded have the administrative capability to perform effectively?

Answer: Several steps have been taken to enhance the administration of the summer program. The steps taken include regulations changes and an expansion of the grant application requirements that specifically focus on this area. Administrative provisions of the regulations have been tightened to require, in the selection of subgrantees, that strong consideration be given to previous performance, financial management capabilities, qualifications and background of persons with operation and fiscal accountability, provisions for adequate training of personnel, and performance under other Federal programs.

A monitoring guide has been developed which focuses on certain administrative systems, especially monitoring. The monitoring guide strengthens last year's regional requirements by instituting intensive, mandatory monitoring activities and corrective action plans. Moreover, the guide establishes procedures for documenting these activities.

In addition to the above, an intensive effort is being made to improve the quality of technical assistance to Regional Offices and prime sponsors.

Question: Since poor administrative controls seem to be a frequent problem in the Summer Jobs Program, has Labor taken any action to monitor each project within the first few weeks of its existence to make sure that the established administrative procedures are being followed?

Answer: The regulations require that prime sponsors establish monitoring procedures to insure adherence to the terms and conditions of subgrants and contracts.

The program management provisions require contractors or subrecipients to have supervisory and operational personnel for monitoring each site to which participants are assigned, and to train their own personnel and worksite personnel with regard to the duties and responsibilities, including monitoring. Also, each prime sponsor visits worksites of each contractor or subrecipient on a sample basis during the first half of the summer program.

The 1979 monitoring strategy for the Summer Youth Employment Program (SYEP) is to conduct the first of three onsite reviews during the planning and design phase to detect and correct problems early. Subsequent visits are to occur soon after the start up of operations to surface deficiencies and prevent problems.

Question: A GAO report on the 1977 Summer Program for Economically Disadvantaged Youth in New York City noted that project sponsors from previous years were generally refunded with little consideration of their past performance and that major sponsors were automatically refunded. Before funding any prime sponsor, does Labor make sure that the prime sponsor has received, reviewed and evaluated written plans from each of its sub-contractors?

Answer: The regulations contain such provisions, as do the grant application instructions. Prime sponsors sub-contracts may be only with organizations that have demonstrated sufficient program capability. Furthermore, this capability is spelled out in terms of operations, worksite requirements, financial management, qualified management personnel, past performance, monitoring, etc., at both the prime sponsor and subgrantee level. There are a number of capability provisions including the regulatory directives to close worksites where serious or continued violations of the Act, the regulations or conditions of the contract or subgrant are found.

Question: A big problem pointed out by GAO appears to be lack of adequate supervision of summer youth jobs enrollees. Aren't most supervisors regular employees of sponsoring organizations, such as city park departments?

Answer: While some supervisors are regular employees of sponsoring organizations, the National Office in its team reviews last summer found that due to the nature of the summer program and the numbers of youth to be served many adults were hired especially as supervisors. In some instances also, we found that the supervisory effort was reinforced by using an older youth as an assistant to the supervisor.

Question: Are public service jobs enrollees used as supervisors of summer youth projects?

Answer: Though present data systems are not specifically structured to report this data element on a national level, the Department has encouraged the practice of using PSE enrollees as supervisors. Based on feedback from regional and prime sponsor staff, our understanding is that summer youth enrollees are often trained and supervised by PSE participants.

Question: What can be done to improve the quality of supervision this coming summer?

Answer: A number of steps have already been taken to improve the quality of supervision this coming summer. We have instructed prime sponsors to maintain the participant-supervisor ratio at 15 to 1, unless specific justification is provided that obviates the need. Where there will be more than 15 participants, we have stressed that 2 supervisors or 1 supervisor and 1 assistant supervisor be placed on the site. In addition, we are requiring that supervisors be skilled both in the activity they are supervising and in the training of enrollees in that skill. Also, Departmental policy currently calls for Federal staff monitoring to give further specific emphasis to this aspect of the program. A handbook for summer program supervisors which provides direct technical assistance for improved supervisory techniques was developed and has been distributed to all prime sponsors.

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

Question: Isn't "Youth Community Conservation and Improvement Projects" essentially a public service jobs program earmarked for 16 to 19 year-olds?

Answer: Youth Community Conservation and Improvement Projects (YCCIP) seek to develop skills for 16- to 19-year-olds in well supervised work projects providing tangible products of benefit to the community. Since one of the criticisms of past programs has been lax discipline at worksites and minimal output, YCCIP emphasizes "sweat" and tangible products. Training is for the most part on the job. Supportive services are limited although participants are encouraged to return to school. Priority is given to projects operated by community and neighborhood-based organizations in order to increase community involvement. The range of projects can include weatherization and rehabilitation of the homes of the poor, removal of barriers to public buildings for the handicapped, or vacant lot gardening, park conservation, and cleanup projects.

Public Service Employment (PSE) projects are developed mainly for persons who are "job ready," with the lack of employment opportunities being the major factor to be overcome.

YCCIP projects are characterized by:

-- Constructive work carried out under the guidance of skilled workers with a maximum amount of supervision.

-- A design which will benefit the participant in terms of learning work habits, obtaining skills, and obtaining educational credit for work experiences.

Question: Why shouldn't this program be integrated with the regular public service jobs program, 20 percent of whose enrollees are youth?

Answer: In order to adequately provide the extent of services needed for youth to become employable it is necessary to design and operate projects specifically for youth. The regular PSE opportunity is not designed for a participant who must overcome educational and employability barriers. Therefore, integrating youth programs with the regular PSE programs would not be in the best interest of youth since it would not allow for needed intensive/specialized employability services.

YOUTH INCENTIVE ENTITLEMENT PILOT PROJECTS

Question: Has there been a substantial impact on youth unemployment for the 17 prime sponsors selected to participate in the Youth Incentive Entitlement Projects program?

Answer: The strength of Entitlement's impact on youth unemployment is not yet known. This issue is being addressed in the analysis being conducted by ABT Associates of Cambridge, Massachusetts, under a research subcontract with the Manpower Demonstration Research Corporation (MDRC). Based on a series of surveys of eligible youths in four program sites and, for comparison, four control sites, the preliminary results of this analysis will not be available until early 1980, with a more complete analysis to include post-program effects due in 1982. We do know, however, that through the end of April, 48,500 eligibles had enrolled in the 17 projects, and 43,700 of these had received a job assignment. The number of active youths as of that date was about 31,600. It should be noted that about 91 percent of the enrollments have been in-school youths with the remainder consisting of returning dropouts. These in-school youths are young and many are not likely to have been in the labor market prior to their Entitlement job. Therefore, the program's effect to date on unemployment statistics is probably not as great as one would anticipate from the large numbers of enrollments. Again, the longer-term effects of keeping youth in school and out of the labor market will be the subject of future research.

Question: When do these experimental grants expire, and are there plans to extend the entitlements?

Answer: The grants are presently due to expire in June 1980, when intake will cease.

Question: Do you feel that the concept of guaranteeing employment to youth will be a viable one, and if so, do you have any idea of the number of jobs needed and the related costs on a nationwide basis?

Answer: Though with more than a year to go the evidence is far from conclusive, the concept of Entitlement appears viable from both an impact and implementation perspective. On the impact side, the target population, as determined by the eligibility criteria of 16-19 year olds living in poverty, is heavily weighted towards black central-city or rural youths and is that group in the youth population which as a whole has the most severe structural disabilities in schooling and the labor market. In addition, initial research indicates that the program strategy may be effective, since the longer youth remain in school and the higher the grade they attain, the less likely it is that they will eventually drop out or become unemployed. On the implementation side, most projects, especially the large Tier I sites, experienced initial difficulties, sometimes severe, in meeting the demands posed by Entitlement for continuous enrollment of eligibles and for providing them with jobs fairly quickly. As prime sponsors' experience with the program has increased, however, these problems have diminished, although at a few sites they remain serious. It now seems apparent that if implemented gradually and in hospitable circumstances, Entitlement can be routinized to become a part of a prime sponsor's normal program array.

Since national participation estimates have not yet been determined, nor do we yet know the average of stay per participant, we do not know how many jobs would be required on a nationwide basis, nor can we now determine with any degree of accuracy the relative costs of a national program. Based on analysis of five site budgets prepared for project extension grants through 1980, however, MDRC recently provided figures on projected participant costs from $3,552 in the Baltimore Tier I project to $6,639 in the Hillsborough Tier II project. Because these figures are sensitive to unforseeable changes in level of youth participation, and other program factors, they must be used cautiously.

Question: Please provide data on the relationship of Youth Incentive Entitlement Pilot Projects administrative costs to total program costs for each prime sponsor participating in this pilot program.

Answer: The distribution of costs, as reflected in the following table, shows that Tier I sites had substantially lower program management costs than Tier II sites through September 30, 1978, an effect caused in part by economy of scale. Tier II training program costs have been practically non-existent, and Tier I sites have, with the exception of Baltimore, only limited training operations. Worksite supervision expenses result from requirements to fund first-line supervision of youths at their work stations. King-Snohomish, Cincinnati, and Steuben County are three cases in which supervisors, paid by the program, were used heavily to provide adequate supervision for participants. At other sites, supervision was provided and costs absorbed by the work sponsor (such as public, nonprofit, and for-profit employers). Such externally-absorbed supervisory costs as well as any in-kind contributions are not shown in the Entitlement Fiscal System.

A critical cost feature of Entitlement is payment to cover program staff. Although unable to isolate costs generally classified as "service to clients" in this report, all staff costs are categorized by primary function: management, supervision, and training. Counselor costs are generally located within the program management area.

Total Expenditures and Percent Distribution of Costs
By Major Budget Categories for All Sites
in the Entitlement Demonstration
Through September 30, 1978

		Percent Distribution						
	Total Expenditure ($000)	Program Management[a]		Participant Costs[b]	Worksite Supervision[c]		Training[d]	
Site		Staff	Other		Staff	Other	Staff	Other
Baltimore	10,512	14	6	66	6	2	1	3
Boston	7,607	29	9	54	6	1	1	0
Cincinnati	2,763	22	5	58	15	0	0	0
Denver	3,521	33	8	59	0	0	0	1
Detroit	3,807	25	1	69	5	0	0	0
King-Snohomish	3,200	25	6	57	10	2	1	0
Mississippi	6,446	14	11	70	1	2	1	1
Total Tier I	37,856	21	7	63	5	1	1	1
Alachua County	336	20	11	69	0	0	0	0
Albuquerque	402	19	11	69	0	0	0	1
Berkeley	858	40	3	57	0	0	0	0
Dayton	100	54	3	43	0	0	0	0
Hillsborough	194	33	8	57	0	0	0	1
Monterey	204	41	6	53	0	0	0	0
New York	427	40	1	60	0	0	0	0
Philadelphia	432	31	15	54	0	0	0	0
Steuben County	261	21	9	30	26	15	0	0
Syracuse	976	33	1	65	0	0	1	0
Total Tier II	4,190	33	6	59	2	1	0	0
Total Demonstration	42,046	23	6	62	5	1	1	1

SOURCE: Site Combined Operating Reports.

NOTES: Combined Operating Reports are submitted for each month and year-to-date by each site. Late invoicing by subcontractors occasionally results in understated expenses. Adjustments are made periodically to monthly and year-to-date expense reports to provide accurate reports.

[a] Program Management includes salary and benefits of all management, administrative, and service personnel as well as other costs such as furniture, equipment, space, travel and office operating expenses.

[b] Participant Costs - includes only wages, allowances and fringe benefits paid to youth participants.

[c] Worksite Supervision - includes salary and benefits of personnel who are paid by the program and are direct supervisors of working participants, and for other costs such as work project equipment and supplies.

[d] Training - includes salary and benefits of instructors or trainers directly providing training to participants and for other training costs such as travel, space, equipment and supplies.

Percentages may not add to 100.0 because of rounding.

Question: Does Labor have any indications that this program has resulted in a substitution of jobs provided to youth under other CETA programs?

Answer: Generally speaking, where competition has occurred among program components, it has negatively affected the projected enrollment levels for Entitlement rather than the reverse. This is because some youths eligible for Entitlement, and other programs, find participation in the other programs more attractive. They may not be required to go to school in the Youth Employment and Training Program (YETP) or Youth Community Conservation and Improvement Projects, or they do not have to deal with a comparatively more difficult certification procedure required for Entitlement, or finally, they may be able to obtain training stipends for classwork, as in YETP, which are unavailable in Entitlement. Program staffs at some sites also prefer other programs for many of the same reasons. It should be noted, however, that inter-program competition for eligibles appears to occur more often in full saturation sites (i.e., where the Entitlement area covers a total prime sponsor area) than partial ones.

Prime sponsors in partial sites can target their non-Entitlement youth programs to areas in their jurisdiction outside the Entitlement area. This cannot be done in a full saturation site. In addition, competition appears more likely where economic conditions are better. In areas of high unemployment, the demand for youth jobs will lead to the filling of whatever youth programs are available, Entitlement or not. Where economic conditions are better, and youths have relatively more opportunities for unsubsidized employment, the filling of program slots becomes more difficult and interprogram competition increases.

Question: What percentage of disadvantaged youth is served by each of the four "Special Youth Programs"?

Answer: For the first quarter of FY 1979, the following data is provided:

Youth Employment and Training Program	83%
Youth Community Conservation and Improvements Projects	83%
Youth Incentive Entitlement Pilot Projects	100%
Summer Youth Employment Program	94%
Young Adult Conservation Corps	42%

YOUTH PROGRAMS

Question: Aren't you afraid that unless Congress enacts new youth legislation this session, it will be too late to avoid a continuing resolution for Fiscal 1981?

Answer: We have considered that possibility and we would want to avoid operating the programs under a continuing resolution, if at all possible.

Question: Considering all the problems caused for CETA this last year due to the funding uncertainties under the continuing resolution, why aren't you at least advocating a one-year simple extension of the Youth Employment Demonstration Projects to it?

Answer: We are in the process of developing long term new youth legislation. Toward that end, the administration has established a task force on youth programs and legislation, chaired by Vice-President Mondale, to determine the most appropriate structure for proposed legislation dealing with youth unemployment. Presently, a Presidential Policy Review Memorandum (PRM) on youth employment is being developed in conjunction with 18 Federal agencies and well over 100 key organizations outside the Federal structure. The PRM is due to the President on October 15, 1979 and will serve as the basis for program initiatives including possible legislation to be submitted to the Congress by the end of this year.

WORK INCENTIVE PROGRAM

Question: What is your assessment of the WIN program?

Answer: The WIN program has been an effective deliverer of employment and social services for the past decade emphasizing the placement of welfare recipients into unsubsidized employment. In this effort, WIN has developed many innovative approaches to assist long-term unemployed persons to become able to compete successfully in the job market. One significant aspect in this connection is the WIN program's ability to tailor an employment plan which directly meets the needs of the specific individual. WIN has developed a system which utilizes resources from many community agencies from both the public and private sectors. The WIN program has been markedly successful in working with a group of clients who have been hard to place, providing a comprehensive network of employment development services and employment related supportive services. From this combination, a more effective rate of placement into private unsubsidized employment has resulted, which is the primary goal of the WIN program.

Question: How accurately can you measure welfare, unemployment benefits and food stamp savings resulting from putting welfare recipients into permanent, unsubsidized jobs?

Answer: The welfare savings measure used by WIN is a fairly accurate figure which is based on the difference between pre-employment welfare grant levels and the redetermined grant subsequent to employment. This figure is annualized to calculate a yearly total, and then reduced by applying a percentage rate which is the actual experience of retention on the job for at least 30 days. This is then reported as the total for WIN welfare grant reductions.

The retention for each State is presently being tested by a follow-up survey which is designed to more accurately determine long range retention figures.

The savings from food stamps are calculated by applying a fixed ratio to the welfare grant reduction figures. This ratio was developed after a 1975 study which compiled a total of actual food stamp benefits reduction. The food stamp reduction total was compared to the welfare reduction total to develop the ratio which is still being used in WIN program out-put.

There has been no attempt to systematically measure unemployment benefits reductions attributable to WIN activities.

Question: Is it a valid argument that the WIN program is no longer needed, since CETA has now been redirected toward serving the welfare population?

Answer: The argument that the WIN program is no longer needed because of the CETA redirection is not valid. The WIN program has had more than 10 years of extensive experience in dealing with the employment needs of the welfare population. While there has been a shift in CETA statutory priorities, it doesn't assume that the needs of the welfare population will be served to the same extent under CETA as they currently are being served in WIN. Many of the problems of welfare recipients need special attention and specific kinds of response often requiring close coordination between both the social services agency and the employment and training agency. Even with close coordination, these problems are formidable. Without coordination, the multiplicity of barriers often precludes successful job placement. These have been developed for the past ten years within the WIN program. It should be noted that the WIN population is quite diverse in terms of age, background, skills, and other relevant factors. WIN operates with individuals, tailoring its program to their specific needs and problems, resulting in strategies which directly meet these needs. CETA prime sponsors by and large have not focused their attention on the welfare population. The legislation, while targeting the eligibility criteria lower than it had previously, still does not mandate a fixed percentage of resources to be dedicated solely to the service of welfare recipients.

SUBCOMMITTEE RECESS

Senator EAGLETON. And so, without any further ado, the subcommittee will be in recess.

[Whereupon, at 11:45 a.m., Wednesday, May 9, the subcommittee was recessed, to reconvene at 8 a.m., Thursdy, May 17, 1979.]

COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS AND HEW CONSULTANTS — ABUSE AND MISMANAGEMENT

WEDNESDAY, MAY 17, 1979

U.S. SENATE,
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR AND HEALTH,
EDUCATION, AND WELFARE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D. C.

The subcommittee met at 8:10 a.m. in room S-126, the Capitol, Hon. Robert C. Byrd presiding.

DEPARTMENT OF LABOR

STATEMENT OF HON. RAY MARSHALL, SECRETARY OF LABOR

ACCOMPANIED BY:
- ERNEST GREEN, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
- ALFRED G. ALBERT, DEPUTY SOLICITOR
- WILLIAM B. LEWIS, ADMINISTRATOR, UNITED STATES EMPLOYEMENT SERVICE
- AARON BODIN, DIVISION OF LABOR CERTIFICATION, UNITED STATES EMPLOYMENT SERVICE

OPENING REMARKS OF SENATOR BYRD

Senator BYRD. Mr. Secretary, I thank you for being here at this early hour.

The meeting will come to order.

Mr. Green, I appreciate your presence and those of your associates. This hearing today is to review the Comprehensive Employment Training Act—the use of CETA funds in relation to Puerto Rican workers for the 1978 harvest of apples and peaches. We're here to discuss some of the problems that the Department's ill-fated attempts in this regard caused to eastern fruitgrowers in West Virginia, Virginia, Maryland, New York, and Pennsylvania.

West Virginia fruitgrowers have had problems every year since I've been in the Senate—every year—in obtaining certification from the Department of Labor for the required number of offshore workers to harvest their crops. These foreign workers pick about two-third of the crops, I'm told, and in almost every instance, the certification seems to be a down-to-the-wire event, which has resulted on some occasions in growers losing part of their crops.

PROCESSING CERTIFICATION REQUESTS

I find it difficult to understand or explain to my constituents the rationale which justifies the seeming inaction and foot dragging on the part of some officials in the Department of Labor when they consider these certification requests.

I fully understand that the Department of Labor is charged with seeing that American labor is utilized when and wherever possible. However, high unemployment figures do not necessarily mean that those particular unemployed workers are willing or able to become agricultural workers.

It is not always possible to select from the ranks of unemployed workers suitable workers for harvesting apples and peaches and other crops.

HIGH BENEFITS FOR UNEMPLOYED AMERICANS

One of the reasons American workers do not accept this type of employment, when offered, is that the prevailing high levels of unemployment compensation and welfare payments discourage them. Most Americans are unwilling to forego these benefits to accept what can only be described as arduous and temporary work. This is especially true for the harvesting of peaches, which is not only very demanding physically, but can also be very irritating. It can be irritating just to eat one. It's my favorite fruit, but sometimes it's irritating just to eat one, due to the fuzz on the peach skin.

The result for the worker can be itching, and often results in a quick decision by the worker that the work is not something he wants.

From my own background, I know that growers in my State have exerted great efforts to secure the services of American migrant workers, but often without any demonstrable success. They advertise locally, they advertise out of State for workers, they file job orders with the State employment security agency and the job orders are circulated to every other State employment agency, and employers have even traveled to different parts of the country to personally attempt to recruit help in the harvest.

Some growers have stated that, in their view, their employment of some American workers, sent to them by the Employment Service, is an unreimbursed form of welfare job training.

GROWERS' EXPENSES

I realize that the feelings on both sides of this issue run deep. What we need to establish is a middle ground, which will permit the use of realistic numbers of temporary, alien agricultural workers, while at the same time promote development of American labor resources. The Department of Labor must realize that the fruitgrowers are contantly faced with higher and higher costs of doing business and, on top of that, he must also provide free food and lodging and cost of travel to the job site for his labor force.

He has to absorb the ravages of inflation on the cost of labor, fertilizer, gasoline, et cetera. Additionally, he has to comply with strict regulations issued by the Occupational Safety and Health Administration as well as the Employment and Training Administration.

Growers are beginning to feel that they are being subjected to discriminatory governmental action—not only discrimnatory, but arbitrary. Some growers can now sell their orchards to a developer for a higher price than its current value is for an agricultural entity.

These governmental pressures on growers lead to decreased production resulting from alternatives uses of the land. The consumer will be the loser. The persons employed will be the losers. The growers will be the losers. A decreasing supply will mean higher prices, fewer people employed, and more imports of apples and other fruits.

REDTAPE

Our West Virginia fruitgrowers are not the only businesses that are suffering at the hands of the Federal Government. Our coal mining industry—our State's No. 1 product—has to contend with regulations issued by nine different programs in seven different agencies. These regulations often conflict with each other and act as a dead-hand on this vital industry.

When this administration went into power it was going to remove a lot of the redtape, reduce the number of Government agencies, streamline the government, and reduce regulations. I breathed a sigh of relief, because I thought that our applegrowers were going to get some relief; they wouldn't be put through this same old treadmill of coming down to Washington, taking the two Senators and the Representatives to meetings with people down at the Department of Labor, filing report after report and application after application, finding at the last minute their harvest on the trees becoming ripe but lacking a sufficient number of capable, experienced apple and peach pickers to harvest the crop, seeing their investments jeopardized, facing the specter of huge fruit losses as a very real prospect, and undergoing all of the frustration that they'd been put through year after year.

I thought we were going to get some relief from an administration that would be considerate of these problems and would cooperate with my fruitgrowers to stop this annual trek to Washington with these people, the writing of letters, meetings, and I've seen no change.

Now, this week I recommended to the President that he consider the appointment of one person on his staff who, in handling domestic energy resources and needs, would be charged with creating some semblance of order out of the current bureaucratic chaos. Perhaps, a similar recommendation would be in order in this situation.

Mr. Secretary, shortly after you took office, we discussed some of these continuing problems, faced by our fruitgrowers, and we've discussed this issue on a number of occasions since then.

Mr. Green, you and I discussed these matters when you first went into office. I appreciate your understanding attitude on some of these issues and your attempts to be helpful.

I'm not convinced that this attitude is prevalent below the secretarial level. There still appears to be a reluctance on the part of some Department of Labor agencies and individuals to help these growers when they need help. In fact, there appear to be efforts by some of your depanmental employees to make this annual event as difficult and as frustrating as possible for our growers.

And if there aren't efforts to get certain results in that direction, it's frustrating. It's difficult for the growers. It's frustrating to me to see my people continually have to go through this redtape, long waiting, frustrations, and losses in terms of fruit and money.

FEDERAL FUNDS FOR PUERTO RICANS

Last year's harvest was typical, except that for the first time—for the first time—between $300,000 and $400,000 in taxpayers' funds were used to transport, feed, and house nearly 1,000 Puerto Ricans.

The claim that Puerto Rican unemployment for agricultural workers was around 35 percent was not borne out by the type of background from which these recruited workers came. A total of 680, I am told, out of 992 had no agricultural experience at all—none.

I'm also told that 359 of these Puerto Ricans never bothered to return to Puerto Rico. For these men, the Federal Government had provided a free ride to the mainland. My correspondence tells me that the American taxpayers are tired of hearing about the use of their hard-earned tax dollars for programs which are misused, poorly planned, and executed in the name of providing job assistance.

This subcommittee has a need and a desire to determine how CETA funds were used last year in the recruitment of Puerto Rican workers and to insure that similar fiascos and wastes of taxpayers' money are not repeated with funds included in this year's appropriations bill.

Assistant Secretary Green, are both the Employment Service and the Comprehensive Employment Training Act programs under your jurisdiction?

Mr. Green. Yes, sir.

REQUEST FOR WORKERS

Senator Byrd. Through the existing Employment Service system, agricultural workers file job orders for workers for the apple harvest; for the 1978 harvest, when did growers file job orders and request certification for temporary alien workers?

Mr. Green. The bulk of the growers would have filed orders in the early part of the summer, June–June 16.

Senator Byrd. When?

Mr. Green. Around June 16.

Some ranged down to July the 25th, but of the growers——

Senator Byrd. How many ranged down to July 25?

Mr. Green. I can go through them, Senator. Tri-County filed the order June 16. Romney filed an order July 14; Ewers filed an order June 16; Mount Levels filed an order June 16; and Hillcrest filed an order June 16.

Senator **Byrd**. Did any file orders prior to that?

Mr. **Green**. No, sir. I don't think so.

Senator **Byrd**. How many jobs or people did the growers ask the Employment Service for?

Mr. **Green**. In West Virginia they requested 749 out of a total in 10 States of 7,056, and the Department certified in West Virginia 572 out of a total order of 4,931.

Senator **Byrd**. And what percentage is that? 572 out of 749; what's the percentage?

Mr. **Green**. About—let's see; 572 out of 7,000——

Senator **Byrd**. No; 572 out of 749. I'm talking about West Virginia figures.

Mr. **Green**. We certified roughly 80 percent of the request.

Senator **Byrd**. What percentage of the total did you certify?

Mr. **Green**. Of the total requested?

Senator **Byrd**. Of the 7,056?

Mr. **Green**. We certified 4,791.

Senator **Byrd**. About 70 percent.

Mr. **Green**. And the actual number admitted into West Virginia——

Senator **Byrd**. Wait, we'll get to that in a moment.

Mr. **Green**. All right.

Senator **Byrd**. Let's talk about those who were recruited first. An affidavit from the Puerto Rican CETA section 303 grantee says that 992 people were recruited in Puerto Rico. When did the recruiting of the 992 start?

Mr. **Green**. Recruitment would have started in the late spring or early summer.

Senator **Byrd**. What month?

Mr. **Green**. Roughly late July.

[The information follows:]

TRAINING RECRUITS

Recruitment in Puerto Rico began August 9, 1978, and continued for about 4 weeks. Recruitment in Puerto Rico was delayed because of the necessity to insure that employers would not be subject to Puerto Rican Public Law 87.

Senator **Byrd**. When was it completed?

Mr. **Green**. It was completed sometime in August.

TRAINING RECRUITS

Senator **Byrd**. Was any training given to these recruits?

Mr. **Green**. Working with the commonweath, we engaged in some training and did ask the growers to participate in that training in the Commonwealth of Puerto Rico.

Senator **Byrd**. Was any training actually given to the recruits?

Mr. **Green**. No; simulated training, sir.

Senator **Byrd**. What's simulated training?

Mr. **Green**. The use and availability of ladders, understanding the heights, the weight of the bags that one has to carry, the terrain that one has to walk through—all of that would be part of the training.

Senator **Byrd**. So the answer is that no training was given; right? Why was there no training?

Mr. **Green**. We attempted to have the grower representatives participate in the training but were unable to gain their participation in it.

Senator **Byrd**. Why should they participate? You mean the people from Romney should go down to the Puerto Rico and train them?

Mr. **Green**. We think that if any employer is engaged in assisting in the selection of the individuals——

Senator **Byrd**. Why shouldn't this be the responsibility of the agency? If you're going to bring in people from Puerto Rico, why should people from Romney have to go to Puerto Rico and participate in the training?

Mr. **Green**. The history of this is that there have been disagreements about the qualifications of these individuals so whenever we can, in any of our training programs, we get employer representatives.

FUNDS FOR PARTICIPATING EMPLOYERS

Senator **Byrd**. Who would pay the cost? Who would pay the cost of the employers to go?

Mr. **Green**. In working with them, we would make available some support and, as we're doing now, ask one of the growers associations to participate with the Department in the recruitment of Puerto Rican workers.

Senator **Byrd**. You say that you pay some support? What would it be?

Mr. **Green**. We have technical assistance contracts like we do with any number of——

Senator **Byrd**. Now, what support would you give to me if I'm an apple grower in Romney, W. Va.? You expect me to go to Puerto Rico to train these people? What am I going to do, bear the cost of that?

Mr. **Green**. As I understand, it's normal that growers do their own recruitment, and they do that as part of——

Senator **Byrd**. That's not the answer to my question.

Mr. **Green**. But we do have under our technical assistance contracts with the employer groups where we make available transportation expenses in the recruitment, whether it's for the union or with an employee group, as we do under any of our other CETA title III activities.

Senator **Byrd**. You'd make transportation available to me?

Mr. **Green**. That would be possible. It is permissible.

Senator **Byrd**. Have you been doing that——

Mr. **Green**. Under the——

Senator **Byrd** [continuing]. With the West Virginia growers?

Mr. **Green**. We have not done that with the West Virginia growers, have we?

Mr. **Lewis**. If I understand the question, we have not done it with any growers. We have provided transportation advances to workers in cases where growers would not offer the advance themselves, and in many areas we've been able to establish that it is a prevailing practice for growers to advance the transportation.

Senator **Byrd**. Don't you think it's a little silly to expect the growers to go down to Puerto Rico to do the training? Why don't you provide some training for them?

TRAINING FOR WORKERS

Mr. **Green**. That is what we are doing this year. We have worked with the Commonwealth, the Governor of Puerto Rico, and his secretary of labor.

Senator **Byrd**. Is this the first year you're doing that? What kind of training are you providing this year?

Mr. **Green**. Well, one is to try to utilize the existing Puerto Rican workers who have come to West Virginia and other places who do engage now in fruit harvests. I think there are a number of Puerto Ricans that have been coming to West Virginia and to the eastern States for some years now.

Second, to——

Senator **Byrd**. That's not answering the question. What kind of training are you giving these people?

Mr. **Green**. Namely exposure, Senator. I would think that we are trying to identify workers who have agriculture backgrounds, one; two, that have an interest in employment in West Virginia and other places in the fruit harvest; and, three, that have limited exposure. We think there is 35 percent unemployment in some areas of Puerto Rico, as well as high unemployment on the mainland.

I think we have identified workers who are interested in picking apples in the West Virginia orchards.

Senator **Byrd**. You've identified them, but what kind of training are you giving them?

Mr. **Green**. Well, as I understand it—the picking, the climbing the ladder, carrying the ladder, carrying the bag, being able to climb up and down the ladder, picking the fruit carefully, putting it in the bins, and being able to do it in a timely fashion, is the type of training that would be involved.

Senator **Byrd**. Are they really getting this training?

Mr. **Green**. As you know, sir, apples don't grow in Puerto Rico; it is use of those tools and equipment that we are trying to provide.

Senator **Byrd**. Are they doing this now? Is this training going on right now?

Mr. **Green**. Not at this point; we are in the process of recruiting and setting up the training.

Senator **Byrd**. This is May—

Mr. **Green**. Yes, sir.

Senator Byrd [continuing]. The middle of May.

Mr. **Green**. Well, I would think that the training would not need to be extensive for this kind of job. One would not need to run training for a very long period of time, and we would be able to meet the dates in a timely fashion.

TRAINING FILM

Senator Byrd. How much money was spent on a film on how to pick apples?

Mr. Green. I'll have to submit that.

Senator Byrd. No, you won't have to submit it. You spent $60,000. Why do you have to submit that figure? Why don't you have it?

Mr. Lewis. I don't have it.

Senator Byrd. Find out if the answer is "Yes." Would you do that?

Mr. Lewis. Yes.

Senator Byrd. $60,000.

Mr. Lewis. I certainly will.

[The information follows:]

COST OF FILM

The apple picking film was produced by Virginia Polytechnic Institute, Blacksburg, Va., in 1968. Copies of this film in English and Spanish have been purchased by the Department of Labor at $78 per copy. As Puerto Rico did not have reel projectors, the film was reproduced in tape cartridges. Some difficulty was encountered by the film company in translating the Spanish into the Puerto Rican dialect and delivery of the tape cartridges was delayed until August 28, 1978. The total cost of 10 tape cartridges 18mm and 1 copy of 16mm reel film was $8,300. Due to the late arrival of the film, it was viewed by each worker at the San Juan airport prior to departure for the mainland. This film was shown during the final orientation of the workers and they were advised that if any of them had any doubt that they could climb the ladders and perform the task of apple picking, they should not go to the mainland.

Senator Byrd. When was the film used in Puerto Rico during the recruitment of workers?

Mr. Green. The film was used last year.

Senator Byrd. Was it used before recruitment?

Mr. Green. Yes, sir; it was used before recruitment.

Senator Byrd. Are you sure of that?

Mr. Green. In meeting with the Secretary of Labor Quiros, he indicated it was used before recruitment.

Mr. Lewis. It was part of the recruitment process.

Senator Byrd. At which airport was it shown?

Mr. Green. I would assume San Juan would be the largest airport on the island and the one that has the majority of the trips to the mainland, so it would have to be San Juan.

Senator Byrd. Was it shown just prior to the departure of the flights?

Mr. Green. Yes.

Senator Byrd. So it wasn't used during the recruitment, was it?

Mr. Lewis. The film, as I understand, Senator, was used as part of the orientation for those being transported to the mainland along with orientation in the terms and conditions of employment, and where the worker was destined,. The recruited workers, in addition to being shown the film, received a copy of the order 4 or 5 days in advance of the individual agreeing to come to the mainland.

This was translated into Spanish and he was shown the film.

Senator **Byrd**. I am informed it wasn't used until after the recruitment and just prior to the departure of the flights.

Mr. **Lewis**. I believe you're correct, sir.

Senator **Byrd**. How many persons were transported?

Mr. **Green**. There were 992.

RECRUITS WITH AGRICULTURAL BACKGROUNDS

Senator **Byrd**. How many of these were from an agricultural background?

Mr. **Lewis**. I don't have those figures.

Mr. **Green**. I don't have those records with me, Senator, and I would have to supply them to you.

Senator **Byrd**. I'll supply them to you: 680. Isn't that right? 312 were from agricultural backgrounds; 680 were not.

Mr. **Green**. In looking over the records, I would think that that would be a very low figure. The majority of them didn't come from urban areas of Puerto Rico. Ponce is the urban area. But the majority of those people did come from outlying areas, not from the urban areas.

Senator **Byrd**. The question is: Of the 992 transported, isn't it true that 680 were not from an agricultural background?

Mr. **Lewis**. We don't know that.

Mr. **Green**. I don't have the records by agricultural background for this, but in looking over——

Senator **Byrd**. Why don't you?

Mr. **Green**. In looking over——

Senator **Byrd**. These people were told that the recruits would have an agricultural background.

Mr. **Green**. Would have an agricultural background or an interest in that work and were qualified individuals.

Senator **Byrd**. Well, we'll see just a little bit later on just how many were interested and how many were qualified. 680 were not from an agricultural background. Were these——

Secretary **Marshall**. Excuse me, Senator, what's the source of that data you have? My understanding was——

Senator **Byrd**. I have an affidavit filed by the title III CETA grantee in Puerto Rico.

Mr. **Lewis**. Approximately 30 percent of workers who came to the mainland were eligible under 303 criteria which requires that, I believe, half of their earnings in the preceding 12-month period were from agricultural work.

It could be that there were others——

Senator **Byrd**. 680 were not from an agricultural background.

ELIGIBILITY FOR CETA FUNDS

Mr. **Green**. No, Senator; if you use the 303 criteria, that means that they were eligible under the CETA legislation as a migrant or seasonal farm worker; that would not necessarily indicate that they did not have an agricultural background.

Senator **Byrd.** Would they be eligible for CETA title III funds?

Mr. **Green.** They would not be eligible for 303 funds as migrant seasonal farmers, but they would be eligible for title I or for other title III fundings. They could be economically disadvantaged.

Senator **Byrd.** That's not the question. Would they be eligible for title III funds?

Mr. **Green.** Yes, sir; they would be eligible for title III, but not 303; that is a different——

Mr. **Lewis.** It's possible for a person to have had agricultural experience without being eligible under the 303 criteria.

Senator **Byrd.** With this high percentage of urban recruits, why was there no in the field training?

CERTIFICATION REQUIREMENTS

Mr. **Lewis.** For our certification, Senator, the requirement—going back to the language in the statute, as I recall—is that an individual be willing and physically able. I believe that traces back to the statute. It's a short training time situation. We ask the growers to give 3 days on-the-job orientation so that they can get up to speed.

Senator **Byrd.** Mr. Green, in your answers to questions before the subcommittee's hearing record of February 21, it is stated that "a letter of credit was extended to Puerto Rico to utilize up to $250,000 of CETA title III funds to provide for airline tickets."

Secretary Marshall, in response to a question for the record of February 23 stated that "the eligibility criteria in effect under section 303 would insure that payments are advanced only to persons who are experienced farmworkers."

Since 680 of the 992 transported lacked any agricultural experience and since the title III funds were to be used for all workers, I would appreciate a clarification of these two statements.

Secretary **Marshall.** Let me try to do that for you, Senator.

There's a difference between title III and section 303; 303 is for migrants and seasonal farmworkers, and therefore if they met the eligibility for section 303, they would have to have agricultural background. All of the workers were not transported under section 303. Other title III funds and title I discretionary funds were used.

We do not have a practice of referring people only to certain kinds of work. In fact that's one of the things we've been trying to break down because there has been a history of people being typed, particularly agricultural workers being only referred to agricultural jobs.

What we try to do is to determine if they can do the work, if they have the qualifications for and can do the work. That's for title I and for other title III funds. Under section 303 funds they must have the agricultural background.

TRANSPORTATION FUNDING

My understanding is that we used all three of these sources for transport of these workers in this particular case.

Mr. GREEN. Yes, sir; we used $128,000 of the $250,000 letter of credit on transportation.

Senator BYRD. Were these section 303 funds?

Mr. GREEN. Yes, sir.

Secretary MARSHALL. Part of the funds were 303.

Mr. GREEN. We used a total of $79,354.95 from 303 funds.

Senator BYRD. And what was the total cost?

Mr. GREEN. The total cost in title I and title II was $264,867, and the State agencies in transportation had a total of $6,164.

Senator BYRD. So the total cost was how much?

Mr. GREEN. $271,031.

Senator BYRD. Of which $79,000 was section 303 funds?

Mr. GREEN. Yes, sir.

Senator BYRD. What percentage would that be for section 303 funds?

Mr. GREEN. Roughly one-quarter.

Senator BYRD. Mr. Secretary, in an answer for the record after your testimony on February 23, it is stated: "Those workers who were deemed ineligible for assistance under section 303 were transported to the United States with funds available under CETA title I."

Is that correct?

Secretary MARSHALL. Yes.

Senator BYRD. How do you explain this statement, particularly in light of the affidavit which I referred to affirming the use of title III funds?

Secretary MARSHALL. They were all used and that seems to me to be perfectly compatible with the——

Senator BYRD. What do you mean "they were all used"?

Secretary MARSHALL. Title I, title III and section 303 funds were all used, as I understand it, for that purpose. Therefore, the statement seems to be compatible with the statement that I made that other CETA funds were used where the people were not eligible for section 303.

Senator BYRD. Those who were not eligible for assistance under section 303 were transferred with funds available under what?

Secretary MARSHALL. Title I and other title III or with all title I.

Mr. GREEN. And some State agency transportation, which was $6,000.

Senator BYRD. I didn't get your answer, though; title I and what else?

Mr. LEWIS. It's title I and 303.

Secretary MARSHALL. It's title I and 303.

Senator BYRD. Just those two?

Secretary MARSHALL. Yes, sir.

Senator BYRD. Title I and 303, those two only?

Mr. LEWIS. Yes, sir.

QUALIFICATION CRITERIA

Senator BYRD. Now, what do you think of this statement on the affidavit which affirmed the use of the title III funds?

Mr. **Green.** That would be section 303, Senator, and to be eligible under section 303, one has to have earned at least 50 percent of their income within a 12-month period in agriculture. It's limited only to those workers who are migrants and seasonal workers. One could be an agricultural worker and have earned 48 percent of his income and not be eligible under section 303.

Senator **Byrd.** Did these people qualify under these criteria?

Mr. **Green.** The 300 that you cited would have qualified under title III. The others would not have been eligible under title III, and they were not paid for under title III.

Senator **Byrd.** They were paid for under what?

Mr. **Green.** Title I.

Senator **Byrd.** Did they qualify under title I?

Mr. **Green.** Yes, sir.

Senator **Byrd.** Were they all transported with title III funds and then title I funds used to reimburse the title III account?

Mr. **Green.** No, sir. Section 303 expenditures came to $79,354, and the discretionary title I accounts for 184—$185,000.

Senator **Byrd.** In fact, were not the 992 transported with title III funds and then title I funds were used to reimburse the title III account for the 680 ineligible Puerto Rican workers?

Mr. Bodin. That is correct.

Senator **Byrd.** Then Mr. Green is incorrect?

Secretary **Marshall.** How do you explain that, Aaron?

Senator **Byrd.** Yes; I'd like to have an explanation.

Mr. Bodin. The 303 grantee in Puerto Rico used the money from the letter of credit to transport the workers with the understanding that for those workers found not to be eligible, they would be reimbursed from title I.

Secretary **Marshall.** So it's really in the final analysis, they were really paid for by title I.

Mr. Bodin. Yes.

Secretary **Marshall.** So the way you reconcile the statements——

Senator **Byrd.** That's the way you reconcile it, but the truth is that all 992 were transported with title III funds and then title I funds were used to reimburse the title III account for the 680 ineligible Puerto Rican workers.

Secretary **Marshall.** So finally they were paid for out of title I.

Senator **Byrd.** Yes, finally, but not initially.

Secretary **Marshall.** That's right.

ELIGIBILITY CHECK

Senator **Byrd.** When did the Department first realize that 70 percent of these recruits had no previous agricultural experience?

Mr. **Green.** When was the eligibility checked?

Mr. Bodin. I don't have a date for that.

Senator **Byrd.** You don't have a date for it. Those workers without previous agricultural experience, were they eligible for CETA title III support?

Mr. **Green**. They would have to be economically disadvantaged, 70 percent of their income below the BLS standards, about $7,000 or $8,000 for a family of four.

Senator **Byrd**. That doesn't answer my question. Those who had no previous agricultural experience, were they eligible for CETA title III support?

Secretary **Marshall**. The answer is "Yes," but they are not eligible for section 303, which is a part of title III. They would be eligible for other title III programs.

Senator **Byrd**. Well, were they 303 funds that we're talking about?

Secretary **Marshall**. Were they section 303?

Mr. **Bodin**. Yes.

Secretary **Marshall**. The answer is "Yes."

Senator **Byrd**. When did the Department first realize that 70 percent of these recruits had no previous agricultural experience?

Secretary **Marshall**. I'm not sure we ever did, and I'm not sure that's even a correct statement. We know that they were not eligible for 303 funds, but that is not the same as saying they had no previous agricultural experience.

Senator **Byrd**. You don't even know that to this point?

Secretary **Marshall**. In fact, the affidavit, I think, refers to 303 eligibility but, people who are paid under title I could have had agricultural experience. We simply don't know that. That's the reason I asked about the source of the information. I tried to find that out and have not been able to so far.

Senator **Byrd**. If they had no previous agricultural experience are they eligible for title III support?

Secretary **Marshall**. They would be eligible for title III, but not section 303. In other words, there are other parts of the title——

AGRICULTURAL EXPERIENCE

Senator **Byrd**. I understand, but don't you have to determine whether or not they had previous agricultural experience to know whether or not——

Secretary **Marshall**. I think that's right.

Senator **Byrd** [continuing]. Whether or not they comply with the requirements for section 303 or whatever it is.

Secretary **Marshall**. Yes; and I would assume that as soon as the Puerto Rico Employment Service took their applications, they knew who had previous agricultural experience and therefore was eligible. Is that the case?

Senator **Byrd**. So, indeed you do have to know, right?

Secretary **Marshall**. You have to know if they're eligible for 303.

Senator **Byrd**. Right.

Secretary **Marshall**. Which is not the same as saying no previous agricultural experience. To be eligible for section 303 you have to get over half of your income from seasonal and migratory farmwork.

Senator BYRD. But going outside 303, do they have to have the previous agricultural experience?

Secretary MARSHALL. They do not have to have it. They have to have it only for 303. They don't have to have the previous agricultural experience to be eligible for title I.

Senator BYRD. Well, do they have to have previous agricultural experience to be eligible for anything?

Secretary MARSHALL. Only 303.

Senator BYRD. Now, did you use 303 funds at all to transport?

Secretary MARSHALL. We used 303 funds.

Senator BYRD. Well, didn't you have to determine which of those recruits had had previous agricultural experience?

Secretary MARSHALL. Yes, you had to determine whether they had previous agricultural experience; you had to determine whether they were eligible for section 303. In other words, there could be many workers who had previous agricultural experience who would not be eligible for section 303 because they didn't meet that 50-percent criterion.

Senator BYRD. When you recruit Puerto Rican workers, do you try to determine which recruits have had previous agricultural experience?

Mr. GREEN. As I understand the statute, Senator, the job orders are filed with the commonwealth for those workers who are unemployed. The Department is not required to screen out interested American workers who would be willing to come and do the job and previous agricultural experience is not a requirement. One who is willing and able, physically able to perform the work would be eligible to be referred against that job order.

Mr. ALBERT. If I might, Senator, I think perhaps I can shed a little light on this: the 303 section of title III of CETA is for seasonal and migrant farmworkers; the rest of title III is for other people. Now, to be eligible for 303, you have to meet the standard that we're talking about of having earned 50 percent of your income in the preceding 12 months out of an 18-month period in agricultural employment.

EMPLOYMENT SERVICE

For the Employment Service to refer a worker to a job, the standard in the Immigration Act that applies to whether or not the Department should certify for the admission of the foreign worker is whether or not there's an American worker capable of performing that job.

Now, that doesn't mean that a person who has never performed agricultural work before might not be capable of performing a job, but the 303 CETA test involves the expenditure of CETA money, and therefore the constraint is somewhat more onerous.

You have to meet a much more onerous test in order to be transported at Government expense for an agricultural job. But not just to be referred by the Employment Service. Anyone can be referred by the Employment Service to any job.

The Employment Service, of course, tries to refer qualified people, but if I wanted a job as an agricultural worker, I could go to the Employment Service, and they would have to send me somewhere, and the employer could say when he looks at my hands that I can't pick an apple and, therefore, he doesn't want to hire me.

But the Employment Service is supposed to send anybody to any job that they want to apply for.

Senator BYRD. We're talking about the expenditure of funds that can be utilized for the case in point. So screening is not required under the Employment Service program.

Mr. ALBERT. But it is——

Senator BYRD. But it is required under the CETA program, right?

Mr. ALBERT. Right.

REIMBURSEMENT OF FUNDS

Senator BYRD. When was the title III account reimbursed with title I funds?

Mr. GREEN. It would have to have been done after the harvest sometime.

Senator BYRD. When?

Mr. GREEN. When we were able to reconcile the records of the individuals against the 303 criteria; then we reimbursed title III.

Senator BYRD. Which would have been about when?

Mr. GREEN. I would assume it would have been sometime in September. They were still flowing in September; workers were coming, so it had to be after the harvest in September, the end of September.

Senator BYRD. All right, let's get for the record the precise date.

[The information follows:]

RECONCILIATION OF RECORDS

Considerable difficulty was encountered by the mainland 303 grantees in securing itemized statements from motels and then breaking down the statements to determine costs charged to eligible 303 workers and noneligible workers. Puerto Rico was reimbursed on April 5, 1979. Reimbursement to the grantees from Maryland, Virginia, West Virginia, and New York was authorized on April 17, 1979. Payment will be effective when necessary grant budget modifications are received from those agencies.

Senator BYRD. And in what amount?

Mr. GREEN. As I said, the title I discretionary account was $185,512. There was a total expenditure of title III of $79,354, and title I of 185,512, which made it a total of $264,867.

Senator BYRD. That was the amount of the funds—title I funds—with which the title III account was reimbursed?

Mr. GREEN. $185,512.

Senator BYRD. So more title I funds were used than title III funds?

Mr. GREEN. Yes, sir.

SECTION 303 FUNDS FOR AMERICAN WORKERS

Senator BYRD. Please explain the extent to which the Department has used CETA section 303 funds for the transportation of American farmworkers within the continental USA to harvest apples or other crops.

Mr. **Green**. 303 sponsors are involved throughout the year in assisting in transportation of migrant and seasonal farmworkers to many areas.

Aaron, do you have a number?

Mr. **Bodin**. No.

Secretary **Marshall**. We can get that number for you, Senator **Byrd**.

[The information follows:]

303 FUNDS FOR TRANSPORTATION OF AMERICAN WORKERS

The Division of Farmworker Programs which supervises the CETA title III 303 grantees estimates that $600,000 was used for emergency transportation of workers to both agricultural and nonagricultural jobs. Region IV of the Department of Labor allocated $1,157 of title I CETA funds to the North Carolina Employment Security Commission for transportation of workers to the apple harvest.

Senator **Byrd**. Are they used for transport of any workers other than Puerto Ricans?

Mr. **Green**. Oh, yes.

Mr. **Bodin**. Yes.

Mr. **Green**. They are used for quite a number of workers from any number of areas.

REQUEST FOR SECTION 303 FUNDS

Senator **Byrd**. Your regional office in Atlanta received a request to use section 303 funds for the transportation of American farmworkers from Florida, Texas, and Georgia; was Region IV CETA advised to deny these requests?

Mr. **Green**. I have no information on that, sir.

Senator **Byrd**. Was Mr. Ralph Alewine in that region advised to deny the request?

Mr. **Green**. Not that I know of, sir.

Senator **Byrd**. Does anybody know?

Secretary **Marshall**. No, sir.

Mr. **Lewis**. What year was this?

Senator **Byrd**. What year?

Mr. **Lewis**. This season or last season?

Mr. **Green**. The current regional administrator is David Duncan, and I don't know a Mr. Alewine.

Mr. **Lewis**. He's an employee in Region IV.

Senator **Byrd**. I'm told it was for tobacco growers in North Carolina.

Mr. **Lewis**. That would have been this harvest season. There was a period where we were reexamining the whole transportation issue, including what standards are necessary to determine prevailing practice; it could have been—and we will have to find out for you—that that advice was given.

[The information follows:]

DENIAL OF 303 FUNDS

The Atlanta Regional Office and the North Carolina State Employment Service had made a survey and determined that the prevailing practice in North Carolina was for the employers to advance transportation costs. The growers then filed suit in Federal District Court in Greensboro, N. C., contesting this determination. On May 9, 1979, the court ruled that employers are not required to advance transportation. Attached is a signed statement from Ralph Alewine of ETA's Atlanta Regional Office concerning the alleged request for 303 funds for transportation to jobs in North Carolina.

STATEMENT OF RALPH W. ALEWINE

May 21, 1979

This is to advise that the only statement that I can recall being made on the availability or nonavailability of transportation money for migrant workers was on May 1, 1979, to Jorge Alamo of the Virginia-Carolina Agricultural Producers Association. At that time, Mr. Alamo called me and said he had talked with Mr. McCreary of the Macon, Ga., local office of the Georgia State Employment Service, about workers available for North Carolina tobacco. Mr. Alamo said growers would not pay transportation to North Carolina and wanted to know if workers could get there on their own. Mr. McCreary demurred and said he would have to talk with someone else. Mr. Alamo asked me what we were going to do about it. He inquired about the availability of CETA money for transportation. I gave him no direct answer other than, "Well, I don't know about that."

RALPH W. ALEWINE.

Senator BYRD. The committee would be interested in knowing and knowing why, if such were the case, that the request for the use of section 303 funds for the transport of American migrant farmworkers from Florida, Texas, and Georgia was denied.

Secretary MARSHALL. And that was in 19 what?

Mr. LEWIS. This was in the last couple of months.

Secretary MARSHALL. All right, so the question is: Why were they denied in 1979?

Senator BYRD. Why was Mr. Ralph Alewine in the region IV of CETA advised to deny the request?

Secretary MARSHALL. Does it say who advised him?

Senator BYRD. No; that's for you to determine. I want to know who advised him also.

Mr. BODIN. He was advised of what, specifically, Senator?

Senator BYRD. To deny these requests.

Secretary MARSHALL. To deny a request, the question that we should answer is, Why was Mr. Ralph Alewine advised not to use 303 funds to transport tobacco workers in 1979? And the second part is: Who advised him of that?

Senator BYRD. Your regional office in Atlanta received a request to use section 303 funds for the transport of American migrant farmworkers from Florida, Texas, and Georgia.

Mr. LEWIS. I believe——

Senator BYRD. And the follow-on question was: Why was Mr. Ralph Alewine in Region IV CETA advised to deny these requests?

Secretary MARSHALL. And I'd like to know who it was.

ADVANCES FOR TRANSPORTATION

Mr. LEWIS. I believe we established, in the case of North Carolina Tobacco, that there was a prevailing practice for growers to advance transportation. If my memory is correct, it would have been logical for us not to use any Federal funds.

We would have asked the growers to do that.

Secretary MARSHALL. OK, we can check that out, but I think it might be important, Senator, to state that principle: and the principle is that if we can get the growers to advance the funds, then we don't do it; and that might have been the siuation here.

Senator BYRD. I understand that the growers stopped providing the advance cost of transportation in 1978 because the Department of Labor had changed its regulations in this regard in April 1978.

Secretary MARSHALL. Do you want to explain who wants——

Mr. ALBERT. If I might address that; I think that's exactly backwards. The reason the Department of Labor——

Senator BYRD. What?

Mr. ALBERT. The reason growers stopped advancing transportation in 1978, the principle, fundamentally, under which farmworkers are recruited is that you have to at least offer to the American worker the same terms and conditions of employment that you're willing to offer the foreign worker before the Labor Department can say that the admission of that alien will not adversely affect the wages and working conditions of the American worker.

In 1978 the growers decided to stop advancing the transportation to the British West Indian workers. There was an alternative arrangement apparently worked out whereby some banks were going to make the advance for the workers and the banks then, after the workers had been here 50 percent of their contract period, were reimbursed. Because that practice was changed, we could no longer require the same thing for American workers. Whatever the grower offers the foreign worker he must also offer the American worker.

That's why we changed the regulations to provide that we could no longer require them to advance the transportation.

Senator BYRD. CETA 303 funds were used last fall for Puerto Rican apples pickers, right?

Mr. GREEN. Yes.

Secretary MARSHALL. Yes, sir.

SUPPORT FOR MAINLAND WORKERS

Senator BYRD. What about the mainland workers? Were they denied for mainland workers?

Mr. GREEN. They would have had 303 funds and some——

Senator BYRD. Transportation.

Mr. GREEN. Some transportation; yes, sir.

Senator BYRD. Can you give me any better information? Can you be more specific?

Mr. **Green**. Yes, sir. Title 303 for that $79,000 expenditure—$8,000 in 1978 was for rooms; $6,155 was for meals; $63,405 was for transportation.

Under the title I expenditures——

Senator **Byrd**. What was used for mainland workers?

Mr. **Green**. I don't have it broken out according to—excuse me. What?

Mr. **Bodin**. We didn't keep a separate account for American workers. 303 accounts may have at their discretion provided transportation for American workers.

Senator **Byrd**. Why is there a difference? Why are the mainland workers denied this kind of support?

Mr. **Green**. Well, I think as Mr. Albert said, in 1978 it was not the practice in the relationship between the grower and the Jamaican—they no longer advanced transportation for Jamaican workers, and that is the practice that is prevailing now.

Secretary **Marshall**. I think the question is: Did we have situations here where people on the mainland who wanted to get transportation to go and pick apples were denied the use of the 303 funds at the same time that 303 funds were provided to advance transportation for others.

And I believe that's——

Senator **Byrd**. That's it; yes. Why should the funds——

Secretary **Marshall**. Did we in fact do that?

Mr. **Bodin**. We don't know of any instance where a mainland worker did request 303 funds and was denied those funds.

Senator **Byrd**. Well, did the Puerto Ricans request the funds or are they just automatically offered to them?

Mr. **Green**. We have no record of an American worker, who is eligible for 303 assistance, being denied 303 expenditures.

Senator **Byrd**. In other words, American migrant workers are provided with transportation?

Mr. **Green**. Yes, sir.

Senator **Byrd**. Not at their expense.

Mr. **Green**. Well, American migrant workers, either from Puerto Rico or from the mainland, all being Americans, would be provided this.

Senator **Byrd**. Those from the mainland would be provided——

Mr. **Green**. Those that are 303 eligible.

Senator **Byrd**. On the same basis that the Puerto Ricans are; right?

Mr. **Green**. Yes, sir.

Senator **Byrd**. There's no discrimination between the two?

Mr. **Green**. I have no record of an eligible 303 worker grantee being denied that; no, sir.

PROVISIONS OF REGULATION

Secretary **Marshall**. I think it might be useful to state the principle for the use of transportation funds. What does the regulation provide about the use of 303 funds? And has that rule been adhered to consistently? I think that's a question we want to answer.

Mr. **Bodin**. It's one of the services that may be provided to migrant and seasonal farmworkers by 303 grantees. We did specifically earmark funds for Puerto Rico because of the size and concentration of workers and the fact that transportation was only available by air from Puerto Rico.

Mr. **Lewis**. It was a normal activity of the 303 grantee, as I understand it. This includes providing transportation and emergency lodging for migrant and seasonal farmworkers. And those 303 grantees receive an allocation every year. Because of the special situation in Puerto Rico, which would have been a sizeable drain on that 303 grantee's normal allocation, we did set aside separate funds for that. The growers of east coast apples had been able to establish, I believe, in a court case that we could not require them to advance travel. We knew that it would be unlikely that someone in Puerto Rico could afford to come up with the roughly $130 for one-way transportation.

Secretary **Marshall**. The rule everywhere is to try to recoup that from the growers after the worker has been on the job.

Mr. **Lewis**. If the worker stays through 50 percent of the contract period, then that money is reimbursed.

Mr. **Albert**. That's a requirement in the regulations.

Mr. **Lewis**. We had no way of knowing, nor did we guess, that the attrition rate would have been what it was in the case of Puerto Rican workers. In other words, if every Puerto Rican shipped had been employed through 50 percent of the contract period—about 2 weeks at the time—then every one of those dollars would have been reimbursed to the Department.

Secretary **Marshall**. Yes; I think that that seems to be the basic principle, Senator, that we followed, and let me say that the reason that the Puerto Rican situation was special in this case is because we had tried to work out a cooperative arrangement with the growers.

NEW REGULATIONS

I had personally met with the applegrowers, and we'd issued new regulations. We believed that what we should try to do, and agreed with them that what we should try to do, is make every effort to recruit workers who are American citizens and therefore eligible for welfare and unemployment compensation to fill these jobs and only then certify the foreign workers.

This was the first year under these regulations and this was a new effort that we tried to work out. We, therefore, were paying particular attention. Because of the high unemployment rate in Puerto Rico—the official rate is at just about 20 percent which is consistently three times as high as here—to see if we couldn't establish a cooperative relationship and get Puerto Rican workers to come and do this work.

That's the reason it was a special effort. Let me also say that since it was the first year under the new regs and under our effort to get the cooperative relationship with the growers, we paid particular attention to trying to do things that would make the program successful. I think we learned a lot from this experience, as is reflected in the changes that we're proposing for this harvest.

BENEFITS FROM FIRST YEAR'S EXPERIENCE

Senator BYRD. What did you learn, Mr. Secretary?

Secretary MARSHALL. I think we learned that, first, it's important to have cooperation; we also learned that many growers——

Senator BYRD. Cooperation on the part of whom?

Secretary MARSHALL. From all parts of the system: we need cooperation from the Puerto Rican Employment Service; we need cooperation from the growers. We didn't always get it. We have affidavits to that effect.

I think that the reason that we didn't always get it is because many of the growers prefer the foreign workers. Therefore they would not cooperate in working out an arrangement to help us develop a system to recruit and place a flow of workers who are already in this country.

And we're trying to break that down.

FOREIGN WORKERS

Senator BYRD. Do you know why they haven't cooperated?

Secretary MARSHALL. I sure do know why; I think part of it is there has been a history of using foreign workers. I think the main reason they don't is because they prefer the foreign workers.

Senator BYRD. And why would they prefer them?

Secretary MARSHALL. I think they prefer the foreign workers because it's cheaper for them to use the foreign workers; it's a lower labor cost per unit of output for use of foreign workers and a more dependable supply.

I think those are the two things that they are primarily interested in.

Senator BYRD. Let's take a look at that.

Secretary MARSHALL. Let me also say that most of the workers that were used in this country in the apple harvest were domestic workers; though we had 17,000 during the last harvest, only about 5,000 of them were foreign workers.

Many were Puerto Rican workers; some 4,000 are regularly used to harvest crops in the United States.

Senator BYRD. Well, now last year, out of 17,000 total workers, roughly 5,345 were——

Secretary MARSHALL. Foreign workers.

Senator BYRD. Foreign workers.

That's roughly one-third, and they picked two-thirds of the crop. Maybe that explains why the growers prefer them.

Secretary MARSHALL. I think that's right. Now, the law is that you cannot get foreign workers simply because they can do the work better. The law is, if we can recruit domestic workers who are qualified to do the work, then those workers have priority over foreign workers.

Senator BYRD. But have you recruited domestic workers who are qualified.

Secretary MARSHALL. Well, that's a thing we'll have to work on.

Senator BYRD. That's right. Let's take a look at that.

Secretary **Marshall**. We have to make sure they are qualified—that's one of the things we learned. We learned that in order to accomplish that, we need the cooperation of the growers to help us determine who make good apple pickers.

Senator **Byrd**. That's one of the things we told you; you didn't have to learn it. We learned it a long time ago.

Secretary **Marshall**. We didn't get the cooperation.

Senator **Byrd**. And who can blame them? We told you a long time ago that they weren't dependable—they weren't reliable.

Secretary **Marshall**. I will not believe that there are no workers in Puerto Rico who are not——

Senator **Byrd**. I didn't say there were none. You're not going to put words in my mouth.

Secretary **Marshall**. Well, that's right. But I wanted to say, though, that we believe by working cooperatively with the growers we can find workers in Puerto Rico who are qualified, and if we cannot do that within a reasonable period of time, then we should admit the foreign workers into the country.

Senator **Byrd**. Well, you ought to do that, and you ought to do that within a reasonable period of time. They ought to be people who come, who work, and who stay on the job.

We've told you that. That's been the history of these things. We told you that when you first went into office. I told you that in my office, and I told Mr. Green that.

Secretary **Marshall**. One of the reasons I went and met with these growers was to try to work out an arrangement to do that because I knew we needed to do everything that we could to help them get people who are qualified to do the work.

PUERTO RICAN WORKERS

I believe that if we can establish the kind of relationship with Puerto Rico that other growers already have, we will increase the proportion of domestic workers used in apple harvest. In other parts of the country, but not in Virginia, West Virginia, and Maryland, and many of these Puerto Rican workers have been used year after year, and they make good workers—in New York and other places.

We believe that they can also make good workers in Virginia and West Virginia. The question is: How do we figure out a way to do that?

Senator **Byrd**. And how long will it take you to figure it out?

Secretary **Marshall**. I think that what we've done this year; namely, improve on the program from last year. We're going to try to do more training. We have already met with the Secretary of Labor in Puerto Rico to emphasize the need to recruit qualified people, to know more about their qualifications—and to get people from Puerto Rico who will stay on the job and are qualified in order to get the crop harvested.

Senator **Byrd**. See, we have the same old repeat experience. In 1976 there was a similar bad experience with Puerto Rican workers, and I explained all this to you. I laid it all out to Mr. Green when this administration first took office. I thought, now, here's the chance—here is where we'll have a turn around of this experience.

It's an annual experience that we have in getting workers who will pick these fruits. But I've seen no improvement, not any.

Of the 992 Puerto Ricans who were transported to east coast airports, how many arrived in the apple-growing areas?

Secretary MARSHALL. Do we have that number? Why don't we give it.

Mr. GREEN. We have a total number— of the 992, 856 were hired.

Secretary MARSHALL. They all arrived.

Mr. LEWIS. 856 were hired by the growers.

Senator BYRD. In the apple-growing areas?

Mr. LEWIS. Yes, sir.

Senator BYRD. And 992 arrived in the apple-growing areas, right?

Mr. LEWIS. 992. Some were refused by growers and put up in motels.

Senator BYRD. Why were they refused by growers?

Secretary MARSHALL. My understanding is that some crops were late—the beds were all filled—Aaron, why don't you explain exactly how that works?

Mr. BODIN. Yes; I think generally the reason given was that the apple crop was late and that some growers had workers on-site still picking peaches.

Mr. LEWIS. There were last-minute shifts in the date of need phoned in by growers which we tried to meet, but the recruitment time was fairly long in Puerto Rico. Some workers came in from outlying areas and had no telephone communication.

Senator BYRD. So 856 were actually referred to jobs.

Mr. LEWIS. Were actually hired at one time or another.

Mr. GREEN. They were all referred to jobs, sir.

DURATION OF EMPLOYMENT

Senator BYRD. All right. They were hired. How many of these left the job in less than 1 week?

Mr. LEWIS. We don't have a 1-week figure.

Senator BYRD. How many left the job in less than 2 weeks?

Mr. GREEN. We have affidavits from roughly a third of those who remained on the job. Many were terminated by growers and didn't leave of their own will.

Senator BYRD. Well, let's stick to the question. 856 were referred to jobs.

Mr. BODIN. Were hired.

Senator BYRD. Were hired.

Secretary MARSHALL. They were all referred to jobs.

Senator BYRD. All right, I used the wrong terminology. They were hired.

Now, 759 left the job in less than 2 weeks——

Secretary MARSHALL. Or were fired.

Senator BYRD. They left the job; they weren't working, right?

Secretary MARSHALL. Yes.

Senator BYRD. You had 97 who were still on the job. So we have 97 who stayed more than 15 days. Now, of this 97, how many stayed until the end of the harvest?

Secretary MARSHALL. The figures I see—the available information indicates that 97—11 percent of the 856— who were employed after the 15 days or 50 percent of the contract. After working that length of time, they were eligible for the transportation reimbursement.

Mr. LEWIS. There were still 66 employed on the mainland as of mid-November; some of them might have been working at things other than apple picking.

Senator BYRD. They didn't go back. They stayed on the mainland.

Mr. GREEN. They could have found other fruit harvests or agricultural activity that would continue their employment.

Mr. LEWIS. We did refer Puerto Rican workers to other types of employment when they left their original grower.

Senator BYRD. Now, how many of the 97 stayed until the end of the harvest?

Mr. GREEN. The record that we have is that once they passed the 15-day contract period they were eligible for the grower to reimburse, and I don't have the exact figure.

Senator BYRD. You don't know how many stayed?

Of the Puerto Ricans that stayed in the orchards less than 15 days—in other words, 759—where did they go when they left?

Mr. GREEN. 633 returned back to Puerto Rico.

Senator BYRD. How soon?

Mr. LEWIS. Within a few days after they——

Senator BYRD. All right, 633 returned.

Mr. LEWIS. The sequence went like this: when——

Senator BYRD. What happened to the workers?

COST OF RETURNING WORKERS TO PUERTO RICO

Mr. LEWIS. The workers were dismissed or quit, whatever the case would be; they were offered either return transportation to Puerto Rico if they wished, as I recall, or we asked them whether they wanted to be referred to other employment. Our records show that 633 ultimately returned to Puerto Rico.

There were another 293—keep in mind, these are free U. S. citizens; they don't have to tell us what they're doing.

Senator BYRD. That's true.

But do they have to be transported at the taxpayers' expense?

Mr. LEWIS. We felt an obligation that since they were referred up here on a job order that they be returned.

Senator BYRD. How many were transported back to Puerto Rico at the taxpayers' expense?

Mr. LEWIS. 633.

Senator Byrd. What was the cost?

Mr. Lewis. We don't have a return trip cost breakout. We have the total figures by title and State that Mr. Green read into the record before, sir.

Mr. Green. That total, 271, is cumulative for both the transportation to the mainland and back.

Senator Byrd. What was the cost again?

Mr. Green. $271,031; both title I and title III; it would have been for transportation, $63,405.

Senator Byrd. Break that down to show how much the return trip cost.

Mr. Green. I will be able to supply that for the record, Senator.

Senator Byrd. All right.

[The information follows:]

Cost of return trip

The cost for return transportation to Puerto Rico is as follows for 303 eligibles:

New York	$7,361.92
Virginia	10,735.52
Maryland	505.73
West Virginia	2,557.18

For noneligibles from CETA title I discretionary funds:

New York	$14,675.43
Virginia	25,462.35
Maryland	3,476.92
West Virginia	6,219.12

Senator Byrd. I suppose the Secretary has left the room temporarily and is going to return?

Mr. Albert. Yes.

NOTICE TO EAST COAST GRANTEES

Senator Byrd. When were east coast title III CETA grantees informed that Puerto Rican workers were being transported to their areas?

Mr. Bodin. In August.

Senator Byrd. How much notice were they given?

Mr. Bodin. It would have been 3 or 4 weeks.

Senator Byrd. Would you check that out?

Mr. Bodin. Yes.

Senator Byrd. When were east coast title III CETA grantees informed that the Puerto Rican workers were being transported to their areas?

[The information follows:]

Notice to East Coast Grantees

Regional offices held meetings with 303 grantees and State employment security agencies in early August to discuss procedures generally for the reception of Puerto Rican workers on the mainland. They were advised of specific scheduled arrivals at the airports as far in advance as possible but, because of late changes in the dates of need called in by some growers and the last-minute rescheduling of workers, notice to specific areas was sometimes 12 to 24 hours in advance.

Senator BYRD. How much notice did they receive, 24 hours?

Mr. GREEN. I would think that they received more notice than that; the 303 grantees in New York and West Virginia have pretty much the same 303 programs.

Mr. LEWIS. As I recall, Senator, there would have been two types of communications. One would have been just a general announcement that there would be workers transported from Puerto Rico and the grantees would be asked to assist on this end.

The second situation would have referred to when there was a specific shipment, a plane load of workers going into the 303 grantee's area. That might have been 24 hours' notice of a plane load.

ROLE OF GRANTEES

Senator BYRD. What activities did these grantees initiate in the orchards after the Puerto Rican workers arrived?

Mr. BODIN. They were on-site to check with the growers and to check the arrival of the workers. They checked the manifest of the workers referred to the growers with the growers.

They were in the areas when in some instances the workers were refused and in others when they were terminated after 1 or 2 or 3 days. They stayed in the area and assisted by providing lodging for the workers and to arrange alternate employment or return transportation.

SECTION 303 FUNDS FOR OUTREACH PROGRAMS

Senator BYRD. I have a letter here that alleges that CETA-supported agencies are involved in outreach programs to workers in apple orchards using section 303 funds.

Mr. GREEN. Yes, they would be involved in some outreach.

Senator BYRD. What is your explanation of the consideration or considerations which justified the recruitment of American agricultural workers away from apple picking into other training, especially when your Department has sought to place these workers in the orchards?

Mr. BODIN. We have no information on that.

Senator BYRD. I have a letter here. I'll read a paragraph into the record:

> Last year in Pennsylvania the CETA funds were administered by the New Jersey Farmworkers Corporation. What a fiasco. In actual fact, what is happening is that CETA funds are being used to do "outreach" work to try to find other jobs for farmworkers. In the case of our particular farm, once it was known that these jobs were available, we lost several workers right after the beginning of our apple harvest. So the Department of Labor on one hand tells the farmer that there is all kinds of help available to harvest a crop and then invests millions of dollars to lure workers into other jobs.

What's your reaction to that?

Mr. Green. The 303 grantee, the one that you're referring to, was in Pennsylvania and it was the New Jersey Migrant Farmworker Organization, and they lured workers away from that orchard.

I would not know how to respond to that, other than the 303 organizations are involved in providing training opportunities for migrants that are interested in leaving agricultural work and finding other means of employment to stabilize their employment.

Secretary Marshall. That's by statute.

Mr. Green. It's a statutory requirement of the 303 program.

Secretary Marshall. In other words, one of the purposes of the law, Senator, is to—since in many parts of the country we've had inadequate employment opportunities for agricultural workers because of mechanization and other problems, one of the provisions of the statute is not just to refer people to agricultural work, but to make it possible for those who want to do so to get into non-farmwork.

Senator Byrd. I'll insert the letter and some others in the record.

[The letters follow:]

Hess Orchards,
Waynesboro, Pa.,
April 6, 1979

Hon. Robert Byrd,
U.S. Senator,
Washington, D.C. 20510

Dear Senator Byrd: I understand that you are holding hearings on CETA 303 moneys granted to various groups working with seasonal farmworkers. If there is anything you can do to reduce or eliminate this misuse of public funds, I'd certainly appreciate it.

Last year in Pennsylvania the CETA funds were administered by the New Jersey Farmworkers Corp. What a fiasco. In actual fact, what is happening is that CETA funds are being used to do outreach work to try to find other jobs for farmworkers. In the case of our particular farm, once it was known that these jobs were available we lost several workers right at the beginning of our apple harvest. So the Department of Labor on one hand tells the farmer that there is all kinds of help available to harvest a crop and then invests millions of dollars to lure workers into other jobs.

This year the CETA funds in Pennsylvania are being administered by a group from New York State. The State Horticultural Association of Pennsylvania is requesting this group to help the farmers find willing and qualified workers for our fruit harvest. We have not received a response to date.

It certainly seems to me that if the Federal Government feels that it has to give away all of this money, it should require the grantee by law to use all of it in helping the farmer instead of working against him. If things continue in their present direction, the Government will be totally responsible for drying up what labor is available for harvest. It will most assuredly drive up the price of this labor to the point where it will be impossible to operate the large commercial orchards that supply most of the Nation's fruit. As you are aware, the farmer simply doesn't have the ability to pass on increases in our costs like most other industries.

If there is anything I can do to convince people in government that they are killing the incentive for young people to get into farming, let me know.

Sincerely,

H. Lee Showalter,
General Manager.

LETTER FROM JOSEPH P. DORSEY, GENERAL MANAGER
MOORE & DORSEY, INC.

ROBERT C. BYRD
RECEIVED
MAY 31 1979
UNITED STATES SENATE

June 1, 1979

The Honorable Robert C. Byrd, Senator
State of West Virginia
133 Russell Building
Washington, D. C. 20510

Dear Senator Byrd:

I am writing to you in reference to your recent investigation of the use and the misuse of CETA funds for the transportation of seasonal agriculture farm workers into the apple growing regions of Virginia and West Virginia.

Our company is a grower, packer and shipper of apples from the northern Virginia area centering around Berryville, Virginia with 468 acres of farm land and orchards in West Virginia in Jefferson County near Charles Town. We have obtained our picking labor through the Frederick County Fruit Growers Association in Winchester, Virginia since 1945. We, as a company, also have housing for approximately 150 workers which have mostly come through the use of crews and crew leaders.

You are aware of the fiasco with the use of CETA funds sending unqualified Puerto Rican workers recruited by the Department of Labor in 1978. Ironically, our company was not exempt from Puerto Rican Public Law 87 by the Secretary of Labor of Puerto Rico and was referred no Puerto Ricans in 1978. We were able to receive sufficient H-2 workers from Jamaica to complete our harvest only because of the perfect harvest weather in 1978. Under normal weather conditions we would have probably had a crop loss of the nature of 10 to 15%. This loss would have been caused by the confusion and lack of housing and lack of production of the Puerto Rican workers sent to other members of the Frederick County Fruit Growers Association through the use of CETA funding. The loss of crop would have applied equally to Virginia and West Virginia orchards belonging to this company.

It is my sincere belief that the Department of Labor officials are using CETA funds in a vindictive attempt to eliminate the H-2 worker program which has been so successful in this county and which has been authorized through the Congress of the United States. This belief was recently fortified in a meeting held at which the Secretary of the National Council of Agriculture Employers, Mr. Perry Ellsworth, met with Department of Labor officials and with the Secretary of Labor of the Commonwealth of Puerto Rico. At this meeting, the Secretary of Labor of Puerto Rico stated that he had only one week in which to put 2000 bodies on planes to be shipped to east coast apple growers in 1978. This was an impossible situation forced upon the Secretary of Labor of Puerto Rico by the U. S. Department of Labor. Four hundred and twenty-one Puerto Ricans were sent on scheduled airlines to Dulles Airport for members of the Frederick County Fruit Growers Association when they well knew that at the particular time we had only 334 bed spaces in our camp.

This was only possible by the misuse of the vast amount of CETA funds provided to the Department of Labor, creating this fiasco. Of the 421 Puerto Rican workers who arrived, 334 of these workers were hired by members of the Frederick County Fruit Growers Association. Of the 334 hired, only 15 were actually qualified apple pickers who completed the season. The success of the 1978 crop harvest was only made possible by the importation of H-2 workers as provided by Act of Congress.

Our company deplores this waste of the taxpayers money for purpose for which it was not intended, for the exploitation and use of Puerto Rican citizens, many of whom knew not what they were being sent to do nor the particulars of what was required to perform the task of picking apples.

Our company wants you to know that we support your efforts to make there be accountability for taxpayers monies funded into CETA agriculture worker programs. We will be more than happy to provide any assistance or information which we can at your request.

Respectfully yours,

Joseph P. Dorsey, General Manager
MOORE & DORSEY, INC.

LETTER FROM ROBERT F. BURFORD, COLORADO HOUSE OF REPRESENTATIVES

COLORADO
HOUSE OF REPRESENTATIVES
STATE CAPITOL
DENVER
80203

ROBERT C. BYRD
RECEIVED
MAY 25 1979
UNITED STATES SENATE

May 21, 1979

The Hon. Robert C. Byrd
U.S. Senate
Russell Senate Office Bldg., Room 133
Washington, D.C. 20510

Dear Senator Byrd:

Newspaper reports of May 17 and 18 indicated that you, as a member of a subcommittee of the Senate Appropriations Committee, have been dissatisfied with the way Comprehensive Employment Training Administration (CETA) funds were used in a pilot program concerning fruit picking in West Virginia. If one would substitute Colorado for West Virginia in the quotes attributed to you, the situation would be almost identical.

A similar program was instituted in Western Colorado to ostensibly help fruit growers in that area, and as near as the committee investigating the program could find out, was a complete fiasco.

I am including with this letter a copy of a letter I sent to Governor Lamm last Friday, May 18, and a copy of the final report of March 28 made by the investigative committee. I have suggested that the Governor make available to you, if you so desire, the evidence accumulated by this committee. Please consider this an offer to cooperate, in any way that I can personally, in your efforts to straighten out the labor situation encountered by the fruit producers of the United States.

Respectfully yours,

Robert F. Burford

May 18, 1979

The Hon. Richard D. Lamm, Governor
State of Colorado
State Capitol
Denver, CO 80203

Dear Governor Lamm:

It has come to the attention of the undersigned members of the Project Review Committee appointed by you in November, 1978, to investigate the fruit harvest labor situation in Western Colorado, that very similar conditions existed in a parallel program in West Virginia. U.S. Senator Robert Byrd, Democratic Majority Leader of the U.S. Senate, is presently reviewing a program conducted by Comprehensive Employment and Training Act in West Virginia and making various recommendations.

Our final report to you of March 28, 1979, requested that you contact the U.S. Department of Labor Monitor Advocate Office in Washington, D.C. and suggest an investigation of the program in Western Colorado. Inasmuch as news reports suggest a parallel condition exists in West Virginia, we would like to know what action you have taken in regard to contacting the U.S. Department of Labor Monitor Advocate Office. If this has not been done prior to this date, we ask that you contact the Department of Labor, the General Accounting Office, and Senator Byrd's office promptly.

We ask that records of the investigation, detailing bad results experienced in Colorado during the 1978 fruit harvest, be made available to the Senatorial Appropriations subcommittee (which handles the budget of the Labor Department), presently holding hearings in Washington, and to members of the Colorado Congressional delegation.

Members of this committee have been expressing concern that no action has been apparent from your office, and that the Colorado Bureau of Investigation is conducting a very slow (to put it mildly) investigation of what we consider to be a matter which should have been expedited and conclusions reached by this time.

It appears, also, that the Committee's report has little, if any, validity in your office, and the personal and collective integrity and honesty of the Committee is in question.

Many of the affected fruit growers have contacted members of the Committee expressing great concern that the investigation of the aforementioned report is being stonewalled and that no action will be taken. We, as members of the Committee, have tried to reassure them that further action is forthcoming. However, it is apparent that since almost two months have passed since the report was submitted that the Colorado Bureau of Investigation (CBI) does not regard this with the same concern for its timeliness as those of us who are familiar with the situation. The original investigation which was very thorough was completed in approximately four months of working time.

We recognize that you have instructed the Colorado Department of Agriculture to cooperate with the growers in this coming season, but the members of the Committee feel that some action on their recommendations would improve the ability of the fruit growers in Western Colorado to obtain certification of alien workers, if this proves to be the solution.

In trying to achieve a solution to the labor problems, members of the Committee feel that because this crop will have great financial impact on not only the communities in Mesa and Delta counties, but the state of Colorado in general, that action on the recommendations of the Committee should be facilitated at this time. The information which we have at present is that the 1979 peach crop should be excellent, and that approximately double the number of workers will be required this year as were required last year; that the 1979 apple crop has the possibility of being an all-time record, and that 1500 workers will be needed. The undersigned members of the Committee feel that this problem is of import, not only to fruit growers in Western Colorado but to farmers throughout the state of Colorado, and perhaps throughout the nation. Testimony in Washington is indicating to us that a long term solution to this problem must be achieved. We feel that implementation of the Committee's recommendations are critical to resolving problems that are very important to the continuation of an important part of Colorado's agricultural industry.

Sincerely,

PROJECT REVIEW COMMITTEE:

Robt F Burford

Rep. Robert F. Burford

Tilman M Bishop

Senator Tilman M. Bishop

Senator Richard M. Soash

George W. Field,Jr.

Final Report
March 28, 1979

The Hon. Richard D. Lamm
Governor, State of Colorado
State Capitol
Denver, CO 80203

RE: Fruit Labor Harvest

Dear Governor Lamm:

The following are the facts ascertained by the Special Review Committee as directed by you on November 1, 1978, in an Executive Order. We wish to thank you for your Executive Order directing Agencies and Departments to cooperate, and giving the employees immunity from reprisals or jeopardizing their jobs in any way. Without your Executive Order this report would not have been possible.

The findings are as follows:

1. The Colorado Department of Labor and Employment (CDLE), late in 1977 and early 1978 began a study into the fruit harvest labor problems on the Western Slope of Colorado. Through the CDLE a grant was written to the United States Department of Labor (U.S. DOL) in the amount of $340,000. This "Special Project" was entered into in good faith.
2. The Western Colorado Fruit Growers Association (WCFGA) entered into the "Special Project" hoping to gain a dependable source of qualified legal labor. Their efforts were also in good faith.
3. In both Mesa and Delta Counties the Special Project failed to provide and deliver the number of domestic workers ordered by the growers. The deliveries were not timely. Had the crop been normal, the shortage would have been much more acute.

4. A large percentage of the workers provided did not have fruit picking or agricultural experience. Many were physically incapable of performing the strenuous labor of picking fruit, and the labor orders by the growers were not met in a timely fashion by CDLE.

5. Under both state and federal efforts, the majority of the workers recruited by the Special Project did not meet the CETA eligibility guidelines nor were they classified as migrant seasonal farm workers or seasonal farm workers.

6. The recruiting efforts by the personnel on the Special Project failed to adequately screen the workers at the point of origin. A large number of the workers were either documented (Green Card) or undocumented aliens.

7. At the point of origin the recruited labor was furnished improper or inadequate information by the CDLE recruiters with regard to wages, housing and other working conditions. As a result, many workers refused to work upon arrival.

8. The personnel employed by the Special Project kept very poor records from beginning to the end. The communication between the various agencies, workers and growers was very poor.

9. Under both State and Federal supervision, the Special Project failed to take and keep appropriate and accurate records.

10. The Special Project Coordinator and recruiters furnished inaccurate and misleading information to the Executive Director. Based upon that information, the Executive Director allowed an adversarial situation to develop between the administration of the Special Project and the growers.

11. Once the Special Project failed to generate sufficient qualified labor to the growers, the CDLE Executive Director refused to assist the growers in obtaining certification of alien labor, despite promises to the contrary.

12. The WCFGA growers began to use illegal aliens when the Special Project failed to produce qualified workers in a timely manner. With one or two exceptions the growers placed all workers presented to them by the Department.

13. From the beginning of the project the local Job Service Centers were not utilized in the recruiting of qualified "fruit labor." All other U.S. DOL projects and programs are administered at the Job Service Centers or appropriate agency. Question: Why did the U.S. DOL assume management of the Special Project?

14. The U.S. DOL was fully aware of the type of housing available in both Mesa and Delta counties. The growers in Mesa County provided housing to all workers referred to them. Primarily Delta County provided housing for "solo" workers only. Being fully aware of the type of housing in Delta County the U.S. DOL transported into Delta County large numbers of family groups near the end of the fruit harvest. Further emphasizing the growers' willingness to cooperate, it should be noted that the growers made efforts to transport these families to Mesa County for housing.

15. The importing of large groups of unscreened persons on October 11-12, 1978, near the end of the fruit harvest, appears to be a deliberate attempt on the part of the U.S. DOL to defeat the certification process. This transportation process created serious personal abuse of many people, and was indeed improper use of large amounts of public monies and a serious injustice to the growers.

16. The personnel of the Special Project, while under Federal supervision, improperly used CETA monies by paying uncertificated workers for travel time and NON-work time. It was not administered consistently.

17. Some of the records provided to the Review Committee by the CDLE and the U.S. DOL appeared not only misleading and inaccurate, but indeed false. Upon several occasions the U.S. DOL impeded the efforts of the committee by withholding and suppressing information pertinent to the review. Through the Regional Director's Office of the U.S. DOL, attempts were made to intimidate the committee's representative.

18. It appears misleading information was provided the U.S. District Court by the U.S. DOL concerning availability of, and furnishing workers for harvest of fruit crops.

19. Neither the Executive Director nor the Project Coordinator were ever on location during the apple harvest in Delta County. This created a lack of proper administration and supervision of the Special Project. Inaccurate and misleading information was frequently given to the growers.

RECOMMENDATIONS:

A. A special impartial audit regarding the use of all grant monies by both State and Federal Special Project staff should be requested immediately.

B. The U.S. Department of Labor Monitor Advocate office in Washington, D.C. should be apprised of all activities and actions of the U.S. DOL personnel during the Special Project. The full cooperation of the Special Review Committee will be afforded the Monitor Advocate's Office.

C. The Governor forthwith require the Attorney General to appoint an independent Special Prosecutor with authorization to seek the impaneling of a state grand jury. The Attorney General should not be involved beyond the appointment of the Special Prosecutor, because of his statutory responsibility as legal counsel and advisor to the CDLE.

The materials gathered by the committee should be presented to the Special Prosecutor for his/her review under appropriate state statutes, including CRS 18-8-405, Second Degree Official Misconduct, and 18-8-114, Abuse of Public Records.

D. It is the strong recommendation of the committee that the local Job Service Centers be permitted and encouraged to provide the necessary service to agri-business, and if they cannot provide the "qualified" help, that the appropriate steps be taken to assist agri-business in Colorado with certification of alien labor.

Imported workers must be screened at the border for their ability, desire and willingness to work, their physical and mental health, and each should possess a clean record.

Workers should enter into a contract with a grower or growers' association for a specified time, and other pertinent conditions of employment; and when the contract is completed the workers should be returned to their native land.

E. The 1978 Special Project in itself did not provide proper domestic farm labor. Information gathered and evaluated over recent years leads to the conclusion that there are not sufficient willing domestic agricultural workers available. The committee is totally unaware of any source of labor available other than the certification of willing alien labor.

F. The fruit growers in the Western area of Colorado should be reminded that qualified labor should be paid appropriately. We are aware of the many problems of housing, labor, timing, weather, etc., with which the growers are confronted. However, there must be cooperative efforts on the part of fruit coops, growers, Department of Labor, Department of Agriculture, and any other agency or parties affected by the industry. We are also aware that no grower wishes to be placed in a position of having to break the law by hiring illegal aliens.

In closing, may we suggest an expeditious treatment of this report as another season is upon us and the cycle is starting all over again.

If we may be of further assistance, please feel free to call upon us individually or collectively.

Thank you.

Respectfully submitted,

PROJECT REVIEW COMMITTEE:

Walter J. Waldow

Robert F. Burford

Tilman M. Bishop

George W. Field

Richard M. Soash

ATTRITION RATE—PUERTO RICAN WORKERS

Senator **Byrd**. I wrote to you in January, February, and March of this year to share with you the experience of a West Virginia grower. He employed 100 Puerto Ricans, of which only 2 stayed for the full harvest. What would you think of that grower's experience? Do you think it would be typical of growers who employed Puerto Ricans?

Secretary **Marshall**. No, sir; I wouldn't think that, because we recruited in other parts of the United States at the same time. For example, in the Mohr Orchards in Pennsylvania where they used Puerto Ricans—we recruited 90 workers, and my understanding is that all 90 stayed; the experience has been varied throughout the country.

In some cases they stayed a long time; in some cases we've had the high attrition rate. What we do not know and what I cannot explain—but I have tried to find out—was why there was a higher attrition rate in some places among Puerto Rican workers recruited at the same time with the same methods in some orchards than in others.

I think that's an important thing for us to try to determine.

Senator **Byrd**. I wish you would show for the record what your attrition rates have been in other States for apple pickers and peach pickers.

Mr. **Green**. All right.

[The information follows:]

Attrition Rate

Puerto Rican workers have been used by a number of employers to harvest apples and peaches under Puerto Rico Public Law 87 for a number of years. In 1978 Glassboro Services used over 200 Puerto Ricans to pick apples with less than 10 percent attrition rate. They also used 700 Puerto Rican workers to pick peaches with less than 1 percent attrition rate.

Sunny Slope Orchards in Gaffney, S.C., has been using Puerto Rican workers for over 10 years and in 1978 employed 373 Puerto Rican workers with negligible quit rate.

In fact, 90 Puerto Rican workers were employed by 3 growers in the Martinsburg area in 1978. These workers were contracted through Glassboro Services to pick peaches and early apples.

Senator **Byrd**. Would you say that's typical of the growers in West Virginia who employed Puerto Rican workers?

Secretary **Marshall**. Who can answer that?

Mr. **Lewis**. Well, last year so few Puerto Ricans were actually hired by West Virginia growers—there were only 24, according to our records.

Senator **Byrd**. How many were hired?

Mr. **Lewis**. In West Virginia our records show 24 as of September 30, and Aaron says that's one grower.

Senator **Byrd**. That's in what?

Secretary **Marshall**. In apples only.

What about the early apples? We had almost 400.

Mr. **Lewis**. Early apples, peaches——

Secretary **Marshall**. Early apples, peaches; there were almost 400 hired.

Senator BYRD. Is that Virginia or West Virginia?

Mr. LEWIS. I believe 295 Public Law 87 workers were hired; those were not our referrals. That was strictly between the grower and the Commonwealth of Puerto Rico under Public Law 87.

Mr. GREEN. That would have been a contract between those growers over some period of time to utilize Puerto Rican workers. It would be a Public Law 87 contract.

Mr. LEWIS. That's correct.

Senator BYRD. Would you not agree that the statistics we've been discussing—856 Puerto Ricans hired with 759 leaving their job in less than 2 weeks is a pretty deplorable statistic and situation?

ALLEGED DISCRIMINATION

Secretary MARSHALL. I do agree it is. What we don't know is why those people left. We have about 300 affidavits from the workers themselves arguing that they were discriminated against on those jobs and that they were encouraged to leave.

Senator BYRD. Have you checked into it to see if there's any real basis for that accusation?

Secretary MARSHALL. Of course, once we get those complaints, we have to take legal action, and we intend to do that, and we are checking into it; the Solicitor's Office, Mr. Albert and his people are looking into it.

Senator BYRD. I want you to keep me informed.

Secretary MARSHALL. All right, we'll do that——

Senator BYRD [continuing]. Of what these charges are and what your findings are.

COOPERATIVE EFFORT

Secretary MARSHALL. We'll do that, because what we're really interested in doing is trying to work out a cooperative relationship. I think that's the only way we'll ever get this problem resolved.

Senator BYRD. We're interested in seeing our people who year after year have to scrape, scramble, wrestle, get on their knees, and crawl for capable workers that are willing to stay on the job until it is done. I want to see the end of that situation.

Secretary MARSHALL. Well, I do too, and we're ready to work with them to try to get it to end.

Senator BYRD. We're going to work together, you and I, in my office or in yours.

Secretary MARSHALL. Yes.

Senator BYRD. I want to see a better record than this. It just can't be tolerated.

APPROPRIATE USE OF CETA FUNDS

Do you think this is an appropriate use of CETA funds?

Secretary MARSHALL. Yes, sir. In fact, there is a provision in the law for it. That's what Congress intended, and they specifically mentioned——

Senator **Byrd**. Do you think Congress intended for workers to be hired with their transportation paid for, for them to stay on the job less than 2 weeks?

Secretary **Marshall**. I don't think they intended that.

Senator **Byrd**. No, I don't think so either.

Secretary **Marshall**. I think they intended us to use these funds in some cases to try to develop procedures to make it possible for people to stay longer.

Senator **Byrd**. Have you been successful?

Secretary **Marshall**. We've been successful in some cases; we have not been as successful here.

Senator **Byrd**. You haven't been successful at all here, have you?

Secretary **Marshall**. This was not a good experience that we had, and we've done a number of things to see that the harvest this year is improved. We're working with the National Council of Agricultural Employers and others to solicit their help in determining what we need to do to be able to improve and test the domestic market before we admit the foreign workers.

Senator **Byrd**. Is there any discrimination in the use of these funds against migrant workers who are not off-shore?

Secretary **Marshall**. If there is, I will correct that.

Senator **Byrd**. Transportation——

Secretary **Marshall**. I hope they don't; I won't say that this absolutely has not been done, but it certainly is not our policy.

Senator **Byrd**. You have not had any——

Secretary **Marshall**. No, sir. I haven't had any complaints about that; and there should be no discrimination. The policy should be consistently adhered to.

Senator **Byrd**. It shouldn't be selective. It shouldn't show favoritism for Puerto Ricans.

Secretary **Marshall**. No; it certainly should not.

Senator **Byrd**. If it's going to be paid for Puerto Ricans, the transportation and the lodging should be paid for on-shore migrant workers; would you agree?

RECRUITING DOMESTIC WORKERS

Secretary **Marshall**. That's right. In fact I think that we should recruit domestic workers wherever they're available and we are trying to do that.

Senator **Byrd**. And they should be willing to stay on the job.

Secretary **Marshall**. That's right. They should know what the work is about, and that's one of the reasons I think, as we get some years experience with the same workers, that they will know more about it.

Senator **Byrd**. They should receive some training in advance.

Secretary **Marshall**. I think so. I don't think they need a lot of training, but I think that they need to know what they need to do——

Senator **Byrd**. But they need enough to know what peach fuzz feels like on them.

Secretary MARSHALL. And one of the reasons that we thought about using people who have already come up here to teach those workers is they know more about what conditions are actually like here.

SUCCESSFUL USE OF PUERTO RICANS

Mr. GREEN. One of the interesting things, Senator, on the Public Law 87 contract workers referred to West Virginia, the 275 that came up last year; many of them were used in peach harvest and early apple.

Senator BYRD. How many?

Mr. GREEN. 275.

Senator BYRD. Out of how many?

Mr. GREEN. Out of the total referred under contract. There were 4,403 altogether. The bulk of those were in New York and New Jersey.

Secretary MARSHALL. He means how many worked in apples and peaches.

Mr. GREEN. Most of the 275, I would say roughly 75 percent were in the fruit harvest, peaches and apples.

Senator BYRD. So what does your statistic show?

Mr. GREEN. There are Puerto Ricans that have familiarity with the peach harvest, that there are growers who are willing to hire them, and that these workers are able to stay on the job.

Senator BYRD. That doesn't square with the statistics we've been talking about here, does it?

Mr. GREEN. Right. I think that's one of the things about the view that workers from Puerto Rico are not available or interested. This Public Law 87 experience shows an opposite view.

Senator BYRD. So what conclusions do you draw?

Mr. GREEN. The conclusion that I draw is that we do have an interested group of workers, that when we can work cooperatively with the various growers we can meet their demands, find an able workforce and make it productive.

Senator BYRD. Your experience doesn't show that.

Mr. GREEN. On the Public Law 87 my experience shows——

Senator BYRD. I'm talking about the 992 Puerto Ricans.

Secretary MARSHALL. There's no doubt that the experience in the 1978 harvest does not show that with this particular effort but—this was not the only effort with Puerto Rican workers during that time. Our other work shows that you can provide a successful program; you can successfully use Puerto Rican workers, and I think our job is to find out why they'll do it in some cases and not others and what the problems were.

I have a list of things that went wrong. I don't know how much importance to attach to different things on my list.

Senator BYRD. We're talking about apple pickers and peach pickers.

Secretary MARSHALL. That's right. We know that while we made a lot of mistakes in the process, that there were a lot of problems with employers changing job orders, and apparently some of the employers were not as cooperative as others. We need to find out why not and how to get their cooperation.

Senator **Byrd**. Yes. We need to establish that cooperation is a two-way street.

Secretary **Marshall**. I know it's a two-way street. The question is, How do we go about getting that cooperation?

PREVENTION OF PRIOR-YEAR PROBLEMS

Senator **Byrd**. Well, what steps are you taking now to avoid the repetition of what we've experienced—this miserable experience that we continue to have visited upon us? This particular program started in 1976, I believe, didn't it?

Secretary **Marshall**. The regs were issued by the Department.

Mr. **Green**. We have been recruiting on a more organized system.

Mr. **Lewis**. If I may, Senator, since last year's harvest there are several things that we've attempted to do which we believe will bring forth improvement—just how much is premature for me to judge.

NEW REGULATIONS

First of all, particularly after your discussions with Assistant Secretary Green, we did put out new regulations. Your particular concern over avoiding last minute hassles right up to crop picking time is taken care of by a provision in the regulations wherein the Department commits itself to certify 20 days prior to the date of need after a 60-day recruitment period. That would throw it into an automatic procedure whereby if the U.S. workers were not forthcoming, there would be a period of time adequate for a grower to bring in aliens or if they did not agree with our determination—that is, if we denied them foreign workers—they would have adequate time for a speedy appeal to us and/or to the Immigration Service.

We did that, and in spite of the unfortunate events of last year that you know about and many of which came up at this hearing today, the fact is that the growers did have workers, including over 5,000 Jamaicans in time to pick their crops.

So the regulations work. Last year was the first year.

Senator **Byrd**. In how many instances did they have to go into court?

Mr. **Lewis**. There was litigation last year, but the litigation, as I recall, resulted in not many more foreign workers being admitted by the court than we had certified— the difference was something like 414, which percentagewise was negligible.

Senator **Byrd**. But in any event, they made some gain by going into court.

Mr. **Lewis**. No, I think they actually didn't use that many. The actual admissions was 5,345. We had certified 4,931. But the second thing that I would mention is——

Senator **Byrd**. Let's talk about the first thing just for a moment—about the 80-, 60-, and 20-day period.

That regulation requires the Department to certify a request for foreign workers within 60 days of such an application's submission or 20 days prior to the date needed, whichever is later; is that correct?

Mr. **Lewis**. Yes.

Senator **Byrd**. Mr. Secretary, for each application submitted on or before June 17, 1979, will your Department adhere to that regulation?

Secretary **Marshall**. Yes, we will.

Senator **Byrd**. And certify the number of foreign workers needed so that the growers will have the full 20 days to bring the foreign workers into the United States?

Secretary **Marshall**. Yes, we can do that.

Senator **Byrd**. All right. What was your second point?

REVISED OPERATING PROCEDRE

Mr. **Lewis**. The second thing is that we have had more time now to orient and train the state employment service staff in these new regulations, and we have—designed a new procedure all under one cover to implement the regulations. This is the first year under the new regulations. Last year, some of the operational problems were found in different places.

That's all been put into a single procedure, and training has taken place.

ADDITIONAL FUNDS FOR HARVESTING

Mr. **Lewis**. I would also cite that we have, through the normal budgetary adjustment of funds—in the normal funding of the Job Service—not CETA—what we call the title III grants account, put out an additional $2.2 million to the States this year to assist in the 1979 harvest. In the 1980 allocations we are earmarking some funds to augment that recruitment effort as well.

FAVORABLE RESULTS FROM MEETINGS

I would lastly mention that we are hopeful that the results of our meetings with Secretary Quiros will be beneficial. We have also been dialoging with grower representatives and some of those meetings have taken place while I was out of town this week.

The thing that makes us hopeful is that all parties, Secretary Quiros, the Commonwealth, the Department of Labor represented in this case by Assistant Secretary Green, and the growers have indicated that we don't want the same thing to happen this year that happened last year.

Senator **Byrd**. We hear that every year.

Mr. **Lewis**. I believe that those promises are made in good faith. How it will pan out, is difficult to predict.

FUNDS FOR TRANSPORTATION

Secretary **Marshall**. There's one other thing we might mention, and that's in respect to the transportation assistance. We have made the determination that CETA 303 funds will be used only to assist eligible migrants and only to the extent that such funds are available.

Workers would have to meet the qualifications.

Mr. LEWIS. That would tend to be a threshold screening device in itself in that unless growers transported workers on their own, anyone transported with the CETA funds would have to meet that eligibility requirement, which would be half of their earnings from agriculture.

Senate Byrd. Would that be evenly applied to mainland, as well as to off-shore workers?

Mr. GREEN. All U.S. citizens.

HIRING REQUIREMENTS

Mr. LEWIS. There is a difficult dilemma we face as well, sir, that would interest you, I believe. And it's that under the Immigration Statute, we are supposed to make a determination that there's a U.S. worker willing and physically capable of doing this work.

And if the person is capable, as the Deputy Solicitor indicated—and it has nothing to do with degree of qualification or whether that individual, that U.S. citizen can pick apples as fast as a Jamaican—it's our obligation in the law to make that referral.

There are other incentives that work, very strong economic incentives in our view that do, all other things being equal, tend to favor a grower wanting to have a foreign worker in addition to the many things that Secretary Marshall has cited before about a captive labor force in previous testimony: growers do not have to pay Social Security tax or unemployment tax on foreign workers. All other things being equal, there's something like a 9-percent payroll incentive to hire an alien rather than a U.S. worker.

DEPARTMENT OF LABOR'S ROLE

The Department of Labor—and the Job Service in particular, being merely a broker in this process—is caught in between those conflicting incentives. And to some extent that explains the thing that is frustrating.

Senator BYRD. I can understand that, and I'm in no position to say that every grower has cooperated 100 percent. I can't say that, because I don't know.

Mr. LEWIS. We're still trying.

Senator BYRD. But I just see this thing every year, every year, every year. I just think that a better job can be done in providing qualified pickers who are willing to stay on the job.

Mr. GREEN. We have had now two meetings with Mr. Perry Elsworth's organization, the growers, to involve them and Secretary Quiros. We hope to have a meeting in the next week on the subject of qualifications and better targeting of Employment Service efforts in the Commonwealth.

Senator BYRD. I just feel, Mr. Secretary, that I don't know what's wrong; I can't put my finger on it. There just seems to be a built-in bias somewhere in the Department of Labor that insists that these growers take on employees to pick their fruit where they're not trained; where they're not willing to stay on the job, where they don't stay on the job; and yet this is just rammed down the throats of the fruitgrower.

Now, there may be instances in which there's lack of cooperation. I can't say there isn't and I can't say there is.

Secretary MARSHALL. I can say that, at least so far as I'm concerned and my associates, we certainly have no such bias. And it seems to me that the growers have the advantage, that they can take the workers or not take them.

Senator BYRD. If they don't take them, what do they do?

Secretary MARSHALL. Well, they've been able to get workers, and we've had more people available——

Senator BYRD. But they are workers who don't stay on the job.

Secretary MARSHALL. I think that what we need to do is to try to find out why they didn't. As I say, in some cases, they do stay on, and I think we need to work to find out why that is. We need their help with it.

Senator BYRD. You do agree that it's a pretty miserable record?

FAVORABLE RESULTS WITH PUERTO RICO

Secretary MARSHALL. Oh, it is, but there are much better records with Puerto Rican workers than that experience that we had.

Senator BYRD. In apple picking and peach picking?

Secretary MARSHALL. In apple picking and peach picking.

Sentor Byrd. I want to see these records on this record.

Secretary MARSHALL. Yes; we'll provide that. And what we need to do is find out why that is and to try to strengthen the recruitment and we're doing that through training and in trying to find out more. I don't think there are many of these workers who just came up here for the ride and then went back home.

Senator BYRD. Well, they didn't come up here to pick apples and peaches.

CONFUSION WITH GROWERS

Secretary MARSHALL. They thought they were coming— but there was a lot of confusion with the growers because of the uncertainties of the harvest; that sometimes changed the job orders so that the Puerto Rican workers didn't go to the place they thought they were going.

Some growers had promised, for example, that there would be certain kinds of food when they got there——

Senator BYRD. We're talking about those that were hired, Mr. Secretary.

Secretary MARSHALL. That's right, those that were hired. The question is: Did they leave and for what reason? Some of the Puerto Rican workers who came up here thought they were going to find conditions they didn't find. I think we need to correct that as much as we can.

Senator BYRD. Whose fault was that?

Secretary MARSHALL. All of ours. I think part of it was that the growers changed their job orders at the last minute. We need to tighten that.

Senator **Byrd**. I'm talking about the conditions.

Secretary **Marshall**. What happened was that some growers specified certain conditions would be available. They then changed their job order so we had to send those workers to other employers who had different conditions. So when the workers got to those places, the conditions that they thought would exist did not. It's mostly withworkers under the Public Law 87, for example, who are paid by the hour.

Senator **Byrd**. Let's talk about those that were hired.

Secretary **Marshall**. I'm talking about those that were hired. Many of the workers who gave us the affidavits thought they were going to find certain conditions but did not find those conditions because they didn't go to the employers that they thought they would go to and part of the reason they didn't was last-minute changes in those job orders by the employers.

One of the things we're tightening is the way those orders get changed; that the employer has a liability once he gives the order to take the people. What we found is, when we sent the workers out, the employer said, "I changed the order; I called it in. And I said I didn't want those workers."

So then we try to send those same workers to some other employer where the conditions are different. What we have to do, I think, is to correct that. If the rule we're going to use this year is that you cannot change unless you do it in writing, we'll know more in advance about how to match the workers with the jobs.

WHY DID WORKERS LEAVE JOBS?

Senator **Byrd**. You have stated that you don't know the reasons why these people didn't stay on the job. Why are you so late in finding that out? We've got another harvest coming up soon.

Secretary **Marshall**. Part of the reason is that in work like this you never do postexit interviews. We'd have to do millions of those over a year.

Senator **Byrd**. You say you're going to try to find out.

Secretary **Marshall**. We are trying to find out. Some of the information we can get from these affidavits; some we can get from the files that we have; and some from talking with the growers themselves. What we need to do is get the information from every source that we can.

Now, beyond that, though, I don't think we need to wait until we get the answers to all of that in order to be able to say. We'll probably learn as much—we'll learn partly from the problems that we've had with this particular experience, but we can also learn from the favorable experience too.

We can find out from the growers who have had good experience, have recruited from Puerto Rico at about the same time, why those workers stayed.

I think we can find that part of it is the method of payment. Part of it is the fact that growers were able to get repeats. They got workers whom they had had before, much like the ones the growers get from the British West Indies. One of the reasons that the BWI's are preferred, in addition to the economic advantage that the grower has, is they are able to use the same people year after year.

We're trying to institutionalize the same kind of process with domestic workers.

Senator BYRD. They won't get many repeats out of this number. 856 were hired and 759 left the job in 2 weeks, less than 2 weeks. You won't get many repeats out of that number.

LEAVING JOB IS NOT ALWAYS VOLUNTARY

Mr. GREEN. Some of those were not leaving of their own will, but were denied employment.

Senator BYRD. Let's find that out; that's just the kind of thing I'm talking about. I want to know both sides of this quesiton.

Secretary MARSHALL. I do too.

Mr. LEWIS. Mr. Secretary——

Senator BYRD. If they're willing to work, they'd stay on the job.

Mr. LEWIS. The fact finding on last year's harvest——

Senator BYRD. Well, what I'm interested in is in your getting the facts. Get them and supply them and come to my office with them. I want the apple growers there, too, and you too, Mr. Secretary.

I can tell you right now, we're going to find out what the facts are, and this argument of yours that, well, maybe they were denied this or denied that or denied something else—maybe they were and maybe they weren't.

Mr. GREEN. Right. I agree, and I think it's an issue we have to examine.

Senator BYRD. There can be wrong on both sides.

Mr. GREEN. Yes, sir; that's true.

Senator BYRD. I said that I don't know. I can't say that there's been full cooperation.

Secretary MARSHALL. I don't know either, and I tried to find that out before I came here.

Senator BYRD. Mr. Green keeps saying that maybe they were denied this or maybe they were denied that. Well, maybe they were. Let's find out and let's find out how many were denied this or denied that. So let's find out how many who weren't just denied this or that; just walked off the job.

That's what I'm talking about.

Mr. LEWIS. The ultimate truth on last year's harvest is going to be extremely difficult——

Senator BYRD. I can't go through this year after year after year after year and be met with a callous attitude on the part of the people in the Department. My people need some help. I don't uphold lack of cooperation——

Secretary MARSHALL. I'm not interested in going through it year after year, either, Senator. And I think it's important. It's beyond the apple harvest. This is a very important principle.

Senator BYRD. It is.

Are these funds being misused? Are they being wasted? Are they being efficiently spent?

EMPHASIS ON A SMALL WORKFORCE

Secretary MARSHALL. I think it also involves the whole question of how we use foreign workers in the country and whether we're really able to develop some mechanism to get domestic people and then in a timely way, to coordinate foreign workers with domestic workers so that we get a smooth flow in the workforce.

I think that's a larger principle that we really need to work on.

Senator BYRD. All right. Now, Mr. Secretary, the employer is currently required to perform certain recruitment activities as specified by the Department of Labor and its regional administrators in General Administrative Letter No. 24-79.

Will the regional administrators have a continuing option to supplement these directives based on local conditions?

Secretary MARSHALL. I think the answer to that is "Yes," isn't it?

Mr. BODIN. Yes.

Secretary MARSHALL. Yes.

Mr. LEWIS. We're supposed to go by this operating procedure.

Secretary MARSHALL. The answer is, "Yes; it will."

Senator BYRD. What public guidance will be available?

Secretary MARSHALL. We have issued new operating instructions and we'll make copies of those available to you. We have one here.

Mr. LEWIS. That's the procedure I referred to earlier.

Senator BYRD. All right.

Secretary MARSHALL. As well as to try to do some training, and I have tried to emphasize to all of our people that, when possible, we need to develop a cooperative attitude with the growers. I think that's the only way we'll ultimately resolve this question.

COOPERATION BETWEEN PROGRAMS

Senator BYRD. Mr. Green, it appears that the ES system and CETA in the Office of National Programs, under your jurisdiction——

Mr. GREEN. Yes, sir.

Senator BYRD [continuing]. They are not coordinating their activities to develop willing and able workers for the apple harvest. Can you tell us to what extent the Office of National Programs is in cooperation with the U.S. Employment Service concerning the development and maintenance of a viable way for us to harvest the apples.

Mr. GREEN. As Mr. Lewis mentioned, one of the things that is involved is the training a couple of months ago in San Antonio, Tex., with the Employment Service representatives from all 50 State employment services. We involved the Office of National Programs and

Mr. Godwin, who is the administrator of that, participated in it. I think we now have much firmer cooperation between the Office of National Programs, both in terms of training involved with these regulations and the instructions that go out to the 303 grantees that operate the program.

Senator **Byrd**. Are you meeting with the grower representatives, CETA grantees, the ES personnel, and the regional staff? Have they had meetings together?

Mr. **Green**. Yes, sir; they have, and I personally have been involved in meetings with grower representatives, as I referred to earlier—the National Council of Agricultural Employers—that convened in my office, the two meetings that we had with their executive board, and expect to meet with again next week.

Senator **Byrd**. You've held separate meetings with State ES directors and grower representatives?

Mr. **Green**. Yes, sir.

COORDINATOR FOR PROGRAMS

Senator **Byrd**. Have you considered appointing one person to report directly to you to coordinate these programs as they relate to the recruitment, training, and referral of workers for the apple harvest?

Mr. **Green**. We have organized that this year with one person responsible for coordinating the programs.

Sentor Byrd. One person; who is that one person?

Mr. **Green**. Mr. Lewis is the ES administrator responsible within our office for that.

Senator **Byrd**. He'll coordinate these two programs. Will you meet, or your designated coordinator meet, regularly with grower representatives to brief them on departmental activities to supply actual qualified and willing workers for the harvest?

Mr. **Green**. Yes, sir. I mentioned that we have met with the National Council of Agricultural Employers. We held two meetings previous to this and have scheduled one meeting for next week in which we're bringing them together with Secretary Quiros and my personal staff, and we will continue to do that.

JOB TRAINING FOR PUERTO RICANS

Senator **Byrd**. Do you have specifics as to the job training that is planned to be given in Puerto Rico prior to transportation to the States?

Mr. **Green**. We are working with the Council of Agricultural Employers to develop that kind of curriculum and Secretary Quiros is coming up to participate in that with them. That is the reason for that meeting.

Senator **Byrd**. Let the committee and me know when you develop those plans.

Mr. **Green**. Yes, sir.

Senator BYRD. And what the plans are.

[The information follows:]

PLANS FOR CURRICULUM

Definitive plans for an orientation and training center for Puerto Ricans are being finalized. The curriculum has been established and we are in the process of selecting a deliverer of these services. However, it is envisioned that the program will:

(1) Provide workers with skills necessary to harvest the apple crop.

(2) Familiarize workers with the various ways and means of compensation for their labor.

(3) Orient workers to living and working conditions on the mainland.

(4) Alert workers to living and working conditions on the mainland.

(5) Inform workers of their responsibilities to their employers.

(6) Inform workers of the rights and protections offered them by the interstate clearance system.

Senator BYRD. Mr. Secretary, I thank you for appearing. I'm sorry we couldn't schedule this at an earlier date. I appreciate your revising your schedule to do so. And I appreciate your doing the same, Mr. Green. I hope we'll have some very conscientious, dedicated, deliberate efforts to make this program work, keeping in mind the sordid experience that our applegrowers are having.

I don't like these hearings any more than you do. I have no more time to give to them than you do, but I do have time to try and find out what the facts are for this committee, and to try to assist the people in my constituency to help them get the people they need to do the job—people who don't walk off the job after 2 weeks. Anyone who walks off the job after 2 weeks, in my judgment, is not seriously interested in a job.

Secretary MARSHALL. Well, I appreciate the chance to work with you on this.

Senator BYRD. I think the Department ought to do something about training these people, letting these people know what this job is all about before they bring them up here.

Secretary MARSHALL. We appreciate your offer to help with the growers. We need their cooperation in this project.

Senator BYRD. I've helped you in the past.

Secretary MARSHALL. We appreciate that.

Senator BYRD. I've arranged meetings and I've sat in on those meetings.

Secretary MARSHALL. I think you've helped us. We're willing to do everything that we possibly can working with them and you to try to develop a successful program.

Senator BYRD. I hope we can do that. I've worked with you in the past, but it hasn't proved to be very beneficial as far as my growers are concerned.

So whenever they want to get together, we'll be asking you to get in touch with them. Then when they come to see me, I'll be calling on you to come and visit with them. Let's see if we can't work together on this and give them some help.

I don't think this has been a record on the part of my Democratic administration that I can boast about. There's no doubt about that.

Secretary MARSHALL. I think before you say that you have to know why. You have to know more than you know or I know about why we weren't successful.

Senator BYRD. Not before I can say it.

Secretary MARSHALL. Well, before I can come back and say it.

Senator BYRD. Well, you can come back and say it, but I'm getting tired of just saying the same thing.

Secretary MARSHALL. I am too.

Senator BYRD. There's no point in coming up here and eyeballing each other and confronting each other. What we need is results, and we're not getting them.

Secretary MARSHALL. I agree.

Senator BYRD. My saying something and your saying something isn't what either of us want. I want results for the applegrowers.

Secretary MARSHALL. We want results for them, but we also want results for the workers, which is our responsibility.

Senator BYRD. That's true, but as long as our applegrowers continue to meet with this kind of record, we're going to have these kinds of meetings. I don't like them.

I'm tired, year after year after year after year, of our apple and peach growers not being able to get capable people who will stay on the job. And for 759 people to walk off the job in less than 2 weeks is a pretty miserable showing. I don't think that helps fruitgrowers. It doesn't help your workers either.

Secretary MARSHALL. It sure doesn't, especially if they walk off. I think if they were forced off——

Senator BYRD. Well, of course the implication is that they were forced off. Maybe some of them were.

Secretary MARSHALL. I don't know that. We have 300 affidavits saying that they were.

Senator BYRD. Well, let's find out how many of those affidavits are correct.

Secretary MARSHALL. I'm not saying that I don't think they are valid, but I think the main point is that without cooperation we're not going to resolve anything, and I think we have to do everything we can to get that.

Senator BYRD. Exactly.

I think we've had a good hearing, and I think we understand one another, and let's see if we can't do better.

Secretary MARSHALL. We will indeed.

Senator BYRD. Otherwise, why have these moneys? Why do we spend CETA funds on programs that don't produce results? That's what the committee is interested in. Right, Mr. Green?

Mr. GREEN. That's correct, sir.

Senator BYRD. OK.

SUBMITTED QUESTION

[The following question was not asked at the hearing, but was submitted to the Department for response subsequent to the hearing:]

APPLE WORKERS

Question. Please provide for the record a further clarification as to the exact nature of complaints alleged against growers in the approximately 300 affidavits mentioned by Labor Department officials. This clarification should demonstrate the exact nature of the complaints by category.

Answer. A total of 362 formal ES complaints were filed by Puerto Rican workers during and after the east coast apple harvest, 1978. Of this number, 56 were filed on the mainland in either Region II or Region III and 306 were filed with the Puerto Rican Department of Labor. There are 10 major complaint categories. The following is the list of the complaint categories concerning the 362 Puerto Ricans who filed complaints. The percentages do not add to 100 percent because the majority of the workers cited more than one area of concern.

In addition, all Puerto Rican workers who filed complaints in Puerto Rico (306), whether they were transported to the mainland or not, have added to their complaints a claim for wages that would have been received, if permitted, to work the full period for which they were recruited and they claim expenses from home to San Juan airport and San Juan airport to home. The percentages below include all 362 complaints.

—13.5 percent complained that they were informed in Puerto Rico that the employer had withdrawn the offer of employment (would not accept Puerto Ricans).

—5.5 percent claimed they were fired due to low productivity and/or bruising fruit, but they do not agree with the reason.

—12.7 percent claim they were fired for low productivity; however, they do not appear to disagree with the reason, except most felt that if they had been given the training or a little more time to adjust that they would have made their quota.

—10.8 percent claim they were fired and were given no reason.

—15 percent claim discrimination for various reasons including the concerns that Jamaicans were given better trees and better picking areas, that the employer stated he preferred Jamaicans and/or that Puerto Ricans were not treated fairly.

—Over 35 percent claim that they were not allowed to work for various reasons, including that either they were never picked up for work, that the camp was full of Jamaicans, no work was available, or that they were told to either pick pears or weed.

—Close to 20 percent complained about the poor housing conditions and bad food.

—Close to 5 percent complained about not being paid the proper wages.

—8 percent stated that the pay and conditions were not as specified in Puerto Rico.

SUBCOMMITTEE RECESS

[Whereupon, at 10:10 a.m., Thursday, May 17, the subcommittee was recessed, to reconvene at the call of the Chair.]

COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS AND HEW CONSULTANTS—ABUSE AND MISMANAGEMENT

TUESDAY, MAY 22, 1979

U.S. SENATE,
SUBCOMMITTEE OF THE DEPARTMENTS OF LABOR AND HEALTH,
EDUCATION, AND WELFARE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:15 a.m. in room S-126, the Capitol, Hon. Warren G. Magnuson [chairman] presiding.

Present: Senators Magnuson and Schweiker.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

STATEMENT OF FREDERICK M. BOHEN, ASSISTANT SECRETARY FOR MANAGEMENT AND BUDGET

ACCOMPANIED BY:
- BENJAMIN W. HEINEMAN, ASSISTANT SECRETARY FOR PLANNING AND EVALUATION
- ERNEST L. BOYER, COMMISSIONER OF EDUCATION
- ARTHUR UPTON, M.D., DIRECTOR, NATIONAL CANCER INSTITUTE

1978 APPROPRIATION AND 1979 BUDGET REQUEST

Senator MAGNUSON. The subcommittee will come to order.

I have a short statement I want to make.

For several years this committee has been attempting to get a handle on the money HEW spends on consultants.

Far too much is spent with far too little return.

The sum of $236 million was requested in fiscal year 1979. This was $42 million more than 1978 and more than double what was spent in 1977. We understand that HEW plans to spend more than $200 million again in 1980 on consultants.

In order to put a stop to this increasing dependence upon outside consultants, our 1979 appropriations bill report limited fiscal 1979 expenditures to the 1978 level of $194 million. We instructed HEW to apply the $42 million difference to program activities or seek a rescission of the funds. We didn't hear at all from HEW on that report. They just ignored it.

This committee has also required a semiannual report of all consultants receiving more than $25,000 per year. These reports have clearly shown the need for further oversight and control of consultant costs.

CONSULTANTS

Last year, HEW used 2,217 individual consultants costing more than $9 million. HEW reported that 12 of these individuals earned over $25,000. We have since found 102 consultants earning above this amount.

Many of the contracts could—and should—have been performed by HEW employees. The committee is deeply concerned over continued reliance on non-Federal personnel for day-to-day operational and decisionmaking functions. In addition to being a very costly personnel practice, it is damaging to employee morale and entirely inconsistent with congressional intent.

The vast majority of consultant costs, however, goes toward information that is of marginal usefulness to HEW.

About one out of three consultant contracts are for program evaluation. Yet this committee has yet to be shown any significant program changes that have resulted from consultant's program evaluations.

The committee has found so many examples of HEW mismanagement in the consultant area that we had trouble deciding on which ones to bring up during this hearing. If necessary, we will continue the hearing in order to bring up some more.

INAPPROPRIATE SPENDING

The following examples seem typical of the type of inappropriate spending that takes place on a regular basis:

—A contract described by the Office of Education's Grants Office as a "real dog" but a "must fund" from the Commissioner was awarded to the American Association of School Administrators. The purpose of the contract is to conduct four meetings between heads of education lobbying groups and the Commissioner of Education. Seven of these lobbying groups are located in Washington, D.C.

—At the end of fiscal 1978, the Office of Education had an excess of over $2 million in its salaries and expenses. Most of these funds were used to fund last minute, rush, sole-source, consultant contracts. An Office of Education memo told the Commissioner, "These funds can be made available to you to allocate as you see fit."

—HEW paid the cost of a lavish weekend vacation for 142 Government employees on an island resort in order to study the problems of poverty.

—A firm by the name of Tracor-Jitco has received over $40 million from the Cancer Institute to test cancer-causing substances.

The original $6 million contract was awarded on a competitive basis. The very next year it was jacked up to $40 million for 5 years. Other companies were not even given a chance to bid on it.

Tracor-Jitco subcontracts out all of the work done on this project because it is a prime contractor. They get up to 22 percent just for doling out the funds.

GAO will discuss the problems of this contract separately.

EFFORTS TO REDUCE FEDERAL SPENDING

This hearing is a central part of the Appropriations Committee's effort to reduce Federal spending to what is essential and cost beneficial.

It seems that wherever we turn in our HEW search, more and more examples keep showing up. Further, we have found that in some agencies, over 90 percent of the consultant contracts are let in the last few days of the fiscal year. It makes one wonder how much leftover money is floating around down there.

American taxpayers deserve to have their money spent in the most effective and efficient manner possible. Some of the spending in this area we are focusing on today clearly does not meet that criteria.

I yield to Senator Schweiker.

USAGE OF CONSULTANTS AND CONSULTANT SERVICES

Senator SCHWEIKER. Thank you, Mr. Chairman.

This hearing was called principally to determine whether HEW is making proper use of consultants and consultant services.

This is not a minor concern. In fiscal 1978 the Department spent some $169 million on consultant services, including the hiring of 2,217 individual consultants and experts. In the present fiscal year, Congress has mandated that HEW not exceed $194 million for such expenditures. While we have consultant costs in a hold position, it is timely to examine HEW's stewardship in this sensitive area of Federal spending.

Our hearing is prompted by a number of serious questions concerning consultants. The major question is, What value is HEW getting from the consultants and consultant services it uses? We have questioned why HEW has to use so many outside advisers to get its job done. In other words, with its permanent, full-time staff of 143,644, why can't HEW do more of its evaluations and studies in-house and save some money? Other questions that concern us: Does favoritism play any role in the award of consultant contracts? Are contracts being used in cases where competitive grants are required? Is the use of consultants a tactic to circumvent authorized employment levels? Also, is the new Office of Inspector General up to the job of policing HEW's use of consultants?

While HEW appointed 2,217 individual consultants and experts in fiscal 1978 and probably will hire even more this year, the Department is refusing to fill all of the health positions that Congress provided the Department in the fiscal 1979 Labor-HEW appropriations bill. For a number of years our subcommittee has been trying to get HEW to stop impounding positions we provide to make its health programs work more efficiently and effectively. For example, we are concerned that, while the number of grant applications the National Institutes of Health receives each year has grown from 9,500 in 1973 to 18,000 this year, the staff necessary to review, negotiate, and monitor such vital areas as biomedical research has not kept pace.

In the past, HEW has neglected the mandates of our committee's reports on filling health positions. This year we put the actual number of positions for each health program in the law itself. We thought that HEW certainly would obey the law. However, we apparently were wrong, for we hear that the Department is citing an employment ceiling as its latest excuse for not filling all of the health positions authorized by Congress. Indeed, HEW apparently takes the position that it need not even inform Congress that it disagrees with legislative intent on this matter.

After some prodding the Department did tell us that its employment ceiling will result in filling 1,155 fewer positions than authorized by our fiscal 1979 bill. As a result, we have appropriated money for positions that will not be filled. We understand that some of this money will be used instead to help cover a portion of last October's pay raise for HEW. It never was our intention that the money be used in this manner.

This is a troubling situation. I hope today's hearing will help to set the record straight on this important matter. Thank you.

Senator MAGNUSON. Thank you.

Now I understand our first witness is Mr. Bohen, Assistant Secretary for Management and Budget.

Mr. BOHEN. Yes, sir; I am the Assistant Secretary for Management and Budget at HEW.

I welcome the opportunity to appear before you on behalf of the Secretary to review the Department's use of the services of consultants and to specify the controls we have imposed to insure improved accuracy and accountability for this area of the Department's expenditures.

INTRODUCTION OF ASSOCIATES

As your staff requested, I'm accompanied by my colleagues, Ben Heineman on my left, HEW Assistant Secretary for Planning and Evaluation; Dr. Ernest Boyer, the Commissioner of Education immediately to my right; and Dr. Arthur Upton, the Director of the National Cancer Institute to his right.

I have prepared and would like to submit for the record, Mr. Chairman, a lengthy statement which your staff has asked me to briefly summarize orally, which attempts to cover the issues and all the questions that we could anticipate in advance of this hearing from the departmentwide point of view.

I would like to summarize the major points of that statement.

Senator MAGNUSON. All right. We'll put your first statement in the record at the conclusion of your testimony.

Mr. BOHEN. Thank you, sir.

SUMMARY OF STATEMENT

Mr. BOHEN. Spurred by the concern of this committee over a long period of time, HEW has increasingly recognized the sensitivity surrounding the use of the outside consultants and has instituted more comprehensive and effective procedures for both reporting and control purposes.

We believe we are in full compliance with the statutory limitation of $194 million in the 1979 appropriations bill.

Let me also say that we believe we have reported fully to the committee under the obligations of that bill both our expenditures and allocations and such reprogramings as would be required in two communications, one in January covering the Department as a whole, and a second report on April 10 covering the Office of Human Development Services.

APPOINTIVE CONSULTANTS

On an administrative basis, in January of 1979, the Under Secretary imposed a 90-percent cap on expenditures in fiscal year 1979 for appointive consultants. Thus, we believe that our expenditures for this category, individual consultants hired for short periods of time in most cases, will be at least 10 percent lower in 1979 than they were in 1978.

The Under Secretary took this action at my recommendation after we reviewed our information and saw a rapidly increasing rate of expenditure for this category of consultants not adequately reported in the Department and not adequately reported to you, as your investigative staff has pointed out.

We believe we have both followed the advice that your staff has given and made major strides in improving our general reporting and the reporting of this specific category of activities. Further, we have instituted very strong controls which I administer directly on the use of appointive consultants in the Office of the Secretary. Since September 30 of last year, at the end of the fiscal year, we reduced the number of appointive consultants on board in the Office of the Secretary from 130 to 79, a 39-percent decrease.

While we intend to eliminate misuse and abuse, we believe that the use of consultants and consultant services is absolutely essential for some purposes. We believe that they are cost efficient for one-time-only temporary or limited-term tasks, and there are a variety of those in the Department, including those serving on advisory councils which meet only periodically. We believe they are appropriate to obtain expertise or specialized knowledge for a limited term which could not possibly be created and sustained within the Department, and we believe they are essential for objectivity and for advice on longstanding problems, most particularly in the area of evaluation, but also in comparable activities where outside advice is required.

CEILING ON CONSULTANT COSTS

We have outlined in our written testimony several requests to you and I would like to summarize these. The Secretary requested in his appearance in February, and I repeat his request, that the committee lift the statutory aspect of the ceiling that has been imposed on consultant services.

Our view is that it imposes specific rigidity in the law and makes it necessary for us to seek a change in the law if there are extraordinary circumstances that would require, and indeed would win, your approval for going beyond that ceiling. As I indicated in my testimony——

Senator MAGNUSON. Excuse me. You don't need to change the law to go beyond the ceiling. The ceiling is the Appropriations Committee. It has nothing to do with the law.

Mr. BOHEN. We consider an appropriations bill a law and we intend to treat it as such and what I am indicating is that if the ceiling continues to be stipulated——

Senator SCHWEIKER. Except for the health positions. You don't consider it the law for health positions?

Mr. BOHEN. I will come to that. I will try to do the best I can with that question.

Senator SCHWEIKER. All right. We wish you would.

Mr. BOHEN. I indicate in my testimony that the Department already has made a decision, which the Under Secretary has announced within the Department, that we intend to keep expenditures for consultant services in fiscal 1980 at or below the ceiling that you stipulated for fiscal 1979—that is, at or below the $194 million—and we propose not to increase it in the years beyond that in excess of the rate of inflation. Should there be need to——

Senator MAGNUSON. What does inflation have to do with the number of consultants?

Mr. BOHEN. It doesn't have to do with the number of consultants, but it has to do with the cost of consultants.

Senator MAGNUSON. Sure.

Mr. BOHEN. We propose not to increase our rate of the use of consultants beyond the rate of inflation which would be a very, very modest rate as against the historic rate.

Senator MAGNUSON. OK.

Mr. BOHEN. Second, we would seek, with the approval of your committee staff, to improve the definition of consultant services that we both are monitoring. I think both your staff and ours have had difficulty. Some of the concerns that your investigative staff have undercovered, in fact, do not seem to be covered by the statutory definition we both agreed to. We would seek to refine and improve this definition in ways that would satisfy your staff——

Senator MAGNUSON. You don't have to satisfy the staff of anything. You satisfy us, the Senators.

Mr. BOHEN. We will satisfy you.

Senator MAGNUSON. The staff reports facts to us. That's all.

Mr. BOHEN. We're working with your staff on an improved definition, Senator, that would satisfy you.

And finally, as I indicated, with the committee's approval, we fully intend to keep our expenditures in this area in 1980 at or below the levels in 1979.

I will stop there and my colleagues and I will try to deal with any questions you may have.

Senator MAGNUSON. All right. Let's stop there on the spending limitation. Last year at this time, HEW planned to spend $236 million on consultants. Did they?

Mr. BOHEN. That was our original estimate of what we would need.

Senator MAGNUSON. This is more than three times the amount that was spent just 3 years ago. How do you account for that?

Mr. BOHEN. Mr. Chairman, I wasn't in this job 3 years ago, but——

Senator MAGNUSON. I don't care who was in it.

Mr. BOHEN. My impression is that a major part of that increase is a result of a changed definition of what was covered under consultant services. My deputy is here who negotiated the definitions with your committee staff. The jump from about $90 million for consultant services 2 or 3 years ago is, in part, accounted for by covering a lot of activities that were not previously covered.

Having said that, I think we would agree with this committee absolutely that the Department, first of all, was not reporting very carefully, and second, was not controlling the growth in these expenditures, which were growing at a rate faster than our budget and at a rate faster than inflation would indicate.

Senator MAGNUSON. Well, the committee instructed HEW to limit its consultant spending in 1979 to the 1978 level.

Mr. BOHEN. Yes, sir.

Senator MAGNUSON. And now we find that you only spent $169 million in 1978. So the committee actually wound up giving the Department $25 million more to spend in 1979 than was available the previous year. That doesn't give us much confidence in your consultant estimate for 1980.

Mr. BOHEN. Well, Senator, let me try to indicate those differences. It is absolutely true that we spent only $169 million of an estimated $194 million.

TIMING OF CONTRACT AWARDS

Senator MAGNUSON. And then to make up for it, you passed around slips at the end saying to go ahead and do this and do it quickly before the end of the fiscal year. Isn't that correct?

Mr. BOHEN. I'm certainly not aware that that was done. I am aware—and this has been a departmentwide problem that Secretary Califano has addressed on a broader basis—that the Department has historically contracted very heavily in the fourth quarter. In 1977, 64 percent of all Department contracts were let in the fourth quarter. In 1978, only 39 percent of all Department contracts were let in the fourth quarter, and we're working very hard, and the Secretary has this as a major concern, to get that percentage down further because it's very clear that letting that many at the last minute is undesirable and it's going to improve.

Senator MAGNUSON. You have improved?

Mr. BOHEN. We think we have improved from 1977 to 1978, both in the area of consultant services and we think we have the data to support it, and I'd be pleased——

Senator MAGNUSON. The last month we got figures—well, in 1978, 90 percent of the consultant contracts were let in the last quarter, and I don't know how many were let in the last week. I haven't got that breakdown.

Mr. BOHEN. I do not have that figure. I would be glad to try and provide the best data we have on that, Senator. It is clear that more are let in the last quarter than in the first quarter.

Senator MAGNUSON. Why is that?

Mr. BOHEN. Well, because with an emphasis on competitive procurement which we have also been introducing in the Department and

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improving our record on, it takes a longer period of time to have those——

Senator MAGNUSON. You come up and talk to us about a figure and you've got three quarters and you must base the estimate of the figure on letting consultant contracts. But the figure wasn't very good, was it? So the last quarter you find you've got this money and therefore we're going to let it out on contract.

Mr. BOHEN. Well, what I can say, Senator, is that we are trying——

Senator MAGNUSON. Well, then, what's the use of us fooling around here? Why don't we get your estimate for the last quarter? Why don't we call you up the last quarter and ask how much you have spent now and how much do you expect to spend the next period, the fourth quarter?

Mr. BOHEN. I think I may be the first Assistant Secretary who could give you those figures on a quarterly basis, Senator.

I would be pleased to provide the Department's data on last year, Senator, regarding this.

Senator MAGNUSON. The figures are there, 90 percent were let in the last quarter.

Mr. BOHEN. If that is the case, I think I can absolutely stipulate that we will improve that record substantially this year and I know the Department's record in 1978 was an improvement over 1977.

Senator MAGNUSON. You'd better improve it. Otherwise, there's no use of us looking at this appropriation or you might as well come up and ask us for 10 percent of the appropriations and then come up at the end and ask us for 90 percent.

Mr. BOHEN. We don't want to do that. We want to let our contracts more evenly over the year. If you do follow the competitive process, the first quarter is obviously going to be somewhat less than the last.

Senator MAGNUSON. Well, all right. Of the 18 consultant contracts reviewed by the subcommittee, 16 were awarded during the fourth quarter of fiscal year 1978. One-half were funded during the last 3 days of the fiscal year. What do you have to say to that?

Mr. BOHEN. Well, I can't say much about that sample, Mr. Chairman, but I don't believe that sample is reflective of the 700-odd contracts that are let in this area and I will be happy to provide the most specific data we have.

Senator MAGNUSON. The figures are of the 18 awarded, only 2 were awarded for the first three quarters and 16 were awarded during the fourth quarter and one-half of the 16—that's 8—8 were awarded the last 3 days, and we appropriate for a year. We have to wait for the last 3 days to find out what you people are doing.

Mr. BOHEN. Well, I think my colleagues who are in charge of the areas that those contracts cover can provide specific reasons why there are good justifications for these individual contracts. What I would say, Senator, is I think that we are doing better than that, both in the universe of contracts generally and the consultant contracts for the Department as well, and that is a result of the Secretary having identified this——

Senator MAGNUSON. It makes it impossible to evaluate your request that you bring up here if you're going to do that. It's impossible to evaluate that. It's an example of bad fiscal responsibility, isn't it? Wouldn't you say it was?

Mr. BOHEN. Yes, sir.

Senator MAGNUSON. All right.

Senator SCHWEIKER. May I interrupt?

Senator MAGNUSON. Yes; go ahead.

Senator SCHWEIKER. Let me say, Mr. Chairman, my guess is that this practice has been going on for a number of administrations, to be fair about it, but the thing that concerns me is that when somebody comes here and says, "We need consultant funds," and then we find out that the funds are so unnecessary that for three quarters they do nothing about awarding contracts, it looks like it's a slush fund. They spend it everywhere else first and whatever is excess they put into consultant's contracts. So instead of having a high priority for consultants, it sounds to me, from just listening to the way it's spent, that everything else comes first and then whatever is unused is put out for consultants, which I think denigrates the argument in terms of how valuable consultants are. If the consultants were that important, the Department would be funding them in the first, second, and third quarters.

So I think it puts a burden on the committee to really look at the figures because I can't conceive, Mr. Bohen, that if consultants have a high priority you wouldn't have contracted out for them in the first, second, and third quarter. I just wonder if it isn't a reservoir that you're using so that, if you can't spend it any other way, you spend it out for consultants at the last minute. That's the impression on this side of the table. Is that analysis wrong?

Mr. BOHEN. Senator Schweiker—and I will ask my colleagues to comment on this—I think some of that analysis is right. I think we can provide data to you and the chairman that would give evidence that the historic record here is worse than the present record. But I also think that there are many cases where it takes many months to put together a first-class RFP, to engage in a major competition, particularly for the larger awards, and then to make a good contract. I think that explains some of the late contracting as well. I think it's a mixed picture.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Senator MAGNUSON. Well, I don't suggest that the minute the fiscal year starts that you immediately start to put out consultant contracts. You have to take some time. But to let the most in the last 3 days is ridiculous.

HEW GOALS FOR TIMING OF AWARDS

Mr. BOHEN. Let me just say that the Secretary's goal in this area is to let 40 percent of the Department's contracts in the first 6 months of the fiscal year, 30 percent in the third quarter, and no more than 30 percent in the fourth quarter. Those are departmentwide goals. They apply to this category of contracts as well as all the rest.

Senator SCHWEIKER. When was that set up?

Mr. BOHEN. On May 18, 1977, the Secretary issued a directive in effect setting in motion a whole process to attempt to get on top of this. On a departmentwide basis, last year we awarded 39 percent of our contracts in the fourth quarter, which was a drop from 64 percent the previous year. We think we can make 30 percent during the current year and we are striving to do so, and I would very much hope ——

Senator SCHWEIKER. Would you repeat that figure?

Mr. BOHEN. We let 39 percent of the value of our contracts in the fourth quarter of fiscal 1978. We missed our target, in short, by 9 percent. We are continuing our target.

Senator SCHWEIKER. And the year before it was what?

Mr. BOHEN. It was 64 percent, and we are aiming at achieving the Secretary's goal of 30 percent in the current fiscal year. Now I do not have the figures on the consultant services part of those contracts with me, but I think I can get them together and I would be pleased to provide them for the record.

Senator SCHWEIKER. Could you give us a breakdown as to the figures you just gave us on the 39 percent this last quarter? Could you break that down by, say, cancer, education, or whatever? In other words, do you have a subcomponent breakdown as to how the different components of that have measured up or not measured up to that 39-percent standard?

Mr. BOHEN. Yes, sir. We have applied the 30 percent goal to each agency in HEW. I can provide for the record the agencies' performance against this goal.

[The information follows:]

Agency performance against Secretary's goal to limit fiscal year 1978 fourth quarter contract awards to 30 percent of annual contract costs

	Percent
Office of Human Development Services	81
Health Care Financing Administration	45
Office of Education	70
Public Health Service	34
National Institute for Education	40
Social Security Administration	34
Office of the Secretary	21
HEW average	39

Senator SCHWEIKER. Well, are you going to reach 30 percent this year?

Mr. BOHEN. We have data now for the first quarter and preliminary data for the second quarter, and we think we have a fair shot at making the 30 percent goal departmentwide.

Senator MAGNUSON. Of course, you're talking about program contracts?

Mr. BOHEN. I'm talking about the full range of contracts, including this.

Senator MAGNUSON. No program contracts?

Mr. BOHEN. Including this area, and as I said——

Senator MAGNUSON. You're not talking about consultant contracts? They're much higher in the fourth quarter.

Mr. BOHEN. I do not have those figures, Mr. Chairman, but I will get them.

Senator MAGNUSON. Why don't you break them down?

Mr. BOHEN. I would be pleased to do that.
[The information follows:]

Percent of fiscal year 1978 consultant contract costs awarded by quarter—Total HEW

	Percent
First quarter	4
Second quarter	18
Third quarter	12
Fourth quarter	66
Total	100

Senator MAGNUSON. The program contracts are little different than consultant contracts.

Mr. BOHEN. Yes, sir.

Senator MAGNUSON. Program contracts are sometimes awaiting us to appropriate sufficient funds and therefore they can be let the minute that the appropriation bill is signed.

Senator SCHWEIKER. Following up on the chairman's point here, of the total program contracts, approximately what percent are consultant contracts?

Mr. BOHEN. I would say, Senator, about 12 to 15 percent. The figures aren't absolutely in my head, but I think we do about $1.5 billion of contracting procurement a year and this is roughly $200 million.

Senator MAGNUSON. Why is it necessary to pay for 2,217 individual consultants when your Department has more than 100,000 full-time employees?

Mr. BOHEN. Well, Mr. Chairman, as I indicated in my testimony——

Senator MAGNUSON. And may I say that there's 1,144,000 employees altogether. That's bigger than the U.S. Army.

Mr. BOHEN. There are a lot of tasks in the Department that are either temporary in length, short term in character, or specialized, for which the justification of expert consultants seems to be appropriate. I'm certainly not in a position to give a historic record to defend whether every consultant HEW has hired across all its agencies——

Senator MAGNUSON. 2,000 of them.

Mr. BOHEN [continuing]. Fits those rigorous standards, but we are working, I think spurred by your concern in this area, to try to get the relationship of those hired to those kinds of justifications as close and as tight as we can.

Senator MAGNUSON. Well, the people down in HEW are in this category where there is expertise and those folks—I know it's difficult and you can't always get the same people and you can't always get the degree of competence in the same people, but then you go out and hire 2,000 more to tell those people what to do—2,217. Maybe you ought to fire some of those people and start all over again within the Department if you have to get consultants from the outside to tell them what to do.Mr. BOHEN. I think what we're seeking to do in general terms is to supplement the capability that we've got inside the Department. I would defer to Dr. Boyer or Dr. Upton or Mr. Heineman to give you a sense of how——

Senator MAGNUSON. I know there are some times you can supplement. I understand that. But this is too much—2,217 individual consultants.

Mr. BOHEN. Senator, let me say that a portion of that figure—to take something that's very familiar—is to cover people appointed for very limited terms to serve on advisory councils, and the Department has, as of December 31, 1978, 257 advisory councils, of which 222 are in the health area and a substantial proportion of that number is in that category. I can provide that for the record.

Senator MAGNUSON. Well, you mean that the consultants are hired to tell the advisory committees what to do?

Mr. BOHEN. Well, in some cases, advisory councils indeed have the capability to get specialized technical help and they put a consultant on.

Senator MAGNUSON. Well, that's advisers to the advisers.

Mr. BOHEN. That would be right, or it may be just getting information together that the advisory councils——

Senator MAGNUSON. All right. But advisory councils should be able to call upon the Department for the facts and the figures.

Mr. BOHEN. Well, I think in most cases they do.

Senator MAGNUSON. In most cases they do, but you justify the 2,000 by using advisory councils?

Mr. BOHEN. I indicated that that is one subpart, and I don't have——

Senator MAGNUSON. How many of these 2,217 individual consultants are advisers to advisory councils?

Mr. BOHEN. I'd have to check that, Senator. I just don't know.

Senator MAGNUSON. I'll tell you what it is. Zero.

Mr. BOHEN. Well, I take that as an answer.

Senator MAGNUSON. Do you have any further questions?

Senator SCHWEIKER. As I understand it, one out of three consulting contracts is for evaluation purposes. Do you concur with that figure?

Mr. BOHEN. Yes; that's generally correct.

EVALUATION OF THE BILINGUAL EDUCATION PROGRAM

Senator SCHWEIKER. Now the question is, What do you do after you get the evaulation results? Do you listen to what the evaluators say? One piece of information I have says that when HEW had the bilingual education program evaluated, which you cited I believe in your opening statement, the report came back saying the bilingual education program produced marginal results, and yet the administration asked for a 10-percent increase in bilingual education this year, some $15 million. If you argue that the consultant money is needed for evaluation of a program, and then you get an evaluation report that says it's marginal, do you listen to the evaluators?

Mr. BOHEN. Senator, I wonder if I could defer to the Commissioner of Education.

Mr. BOYER. Senator, that study was very significantly related to some major moves we made. The first move we made was to change the Director of the Office. The second move was to perform an internal audit that dealt with the staffing and the program procedures in that Office. The third move was to establish more clearly, both internally and in the reauthorization legislation this past year, exactly what our goals for the program were to be. Furthermore, Secretary Califano established an internal tracking procedure in which we are to report quarterly on certain program areas, one of which is bilingual education, in order to demonstrate to him that our goals for increasing the number of children served by the bilingual education program were being met. Also, for the first time this year, grantees in the bilingual program are required to test the children in that program to show that they are in fact language deficient, and submit progress reports on the performance of the children.

I do believe that the impact of that evaluation study was significant, and because it was widely publicized, very shortly after I assumed my duties I had a considerable obligation to try to respond to the concerns raised by it. So, overall, it's true that we continued modestly to increase the bilingual funds, but we did so in the context of sharply improved purposes and better management.

Senator SCHWEIKER. So your answer is that you did use portions of the report to restructure the program?

Mr. BOYER. It alerted us to some very major deficiencies, Senator, and we tried to act responsibly on them.

Senator SCHWEIKER. I think that's a good use. I guess my concern is that here we are holding to a zero growth rate, which I happen to feel strongly is a mistake, yet we increase a program that is operating marginally by 10 percent. That's the concern I have. I don't quarrel with the restructuring. I think it was probably a good constructive use of the evaluation findings. I just wonder why, until you get bilingual education restructured and turn it into a successful program, you increase the budget 10 percent when that's ahead of the growth rate for the Federal budget as a whole, and certainly ahead of many other parts of HEW?

Mr. BOYER. I'd like to just add this note. First, my memory is that we included some of that for research as to what bilingual education was and should be. Second, I should say that the best estimate of the number of children eligible in that program still run well ahead of the funding level, so that the increase was relatively small considering the magnitude of the bilingual education need. However, I don't think we could have justified any increase in that program, Senator, if we hadn't acted aggressively on program control and improved administration.

Senator SCHWEIKER. Well, you propose tripling the amount of money for research and studies, taking it from $2 million to $6 million.

Mr. BOYER. Yes. So I guess my point was that the expansion was also related to a more careful and scholarly analysis of how best to meet the language deficiencies..

Senator MAGNUSON. Don't you have enough of these research programs going on? Do you have to have more? You've got warehouses full of reports.

Mr. BOYER. Overall, Senator, I think I'm much more inclined to that position than the opposite. I think we probably have more knowledge about more programs that are examined than we know what to do with. I think the justification of the bilingual education evaluation is that it grew up rapidly, and there were a lot of different opinions about what we were trying to do in that field, and so we were really justified in pausing and asking what we were doing.

Senator MAGNUSON. The justification of more research was to determine what the results were going to be and you can't get those teacher by teacher, let's say. You can only get it by an overall—but that shouldn't take much doing to get the results of it. Of course, what you say is the eligibility, but that's an appropriation matter. We don't cover enough people in bilingual education. That's my opinion.

Mr. BOYER. Yes; that's true.

Senator MAGNUSON. What we're talking about here is consultants for this and consultants for that and piling up reports and everything else, and you can instinctively know what the result is.

Mr. BOYER. Yes; I think more often that is true.

Senator MAGNUSON. You don't have to have a lot of reports and a lot of discussions. This is why I never was a great supporter of NIE. They go into all kinds of things, but you can evaluate that and what you ought to do is try and convince Congress that we should cover more of the bilingual.

Mr. BOYER. The program size.

Senator MAGNUSON. The program size, yes; because the number of bilingual people is growing.

Mr. BOYER. That's right.

Senator SCHWEIKER. I have one other question.

Senator MAGNUSON. Go ahead.

Senator SCHWEIKER. This is to Mr. Bohen. Why was Marjorie Mecklenberg refused a consultant position in the adolescent pregnancy program? It's my understanding she apparently received some assurance she would receive the position but then, in fact, did not receive it. What's your comment on that situation?

Mr. BOHEN. Senator, I have informed myself on that case from the responsible people in the Public Health Service, but I was not personally involved. It's my understanding that indeed there were preliminary discussions with Ms. Mecklenberg about an appointment, but they came to review in the Office of the Surgeon General and the determination was made there by the Surgeon General that because she had been a recent officer, I believe president of an organization, with a pronounced view on the issue of abortion which is involved in the conduct of the adolescent health program, and because she had also been exceedingly active in the lobbying for that legislation, that it was not appropriate for her to serve as a paid consultant in the development of the program.

And on the basis of that determination that was the judgment of the Surgeon General. The Surgeon General notified Ms. Mecklenberg that her appointment in that capacity would not be approved.

Senator SCHWEIKER. Well, I appreciate the answer. I have problems with it because I note from your own document that a Dr. Margaret Feldman of Ithica College, while working at HEW, helped develop background information for adolescent pregnancy, yet she's on the list of those approved for work in the Office of Adolescent Pregnancy. So here's someone who helped develop the information on the adolescent pregnancy initiative and then yet she was hired.

Mr. Bohen. I think a real distinction in both level of public visibility and participation in the enactment of the legislation was the distinguishing characteristic in those two cases. I think that's what the judgment would be there.

Senator Schweiker. But isn't it true that someone who helped to develop background information for the program would have as much direct involvement as an outsider?

Mr. Bohen. I don't think that's the basis on which the decision in Ms. Mecklenberg's case was made. It was made on the grounds that she had, in her previous period of time, been an officer of a major organization of advocacy in this area, with well-known policy views in an area that the program was addressing, and that she had also been directly and visibly active in the push for the enactment of the legislation and it would be inappropriate then immediately upon that history to appoint her as one of the initial consultants for the further development of the program.

Senator Schweiker. Well, did you check everybody else's views on abortion before hiring them?

Mr. Bohen. I don't think that was the test. I think that the test that the Public Health Service and the Surgeon General was applying here was not their private views but the degree to which their private views had entered into public discourse in a fashion that would establish them as leaders and advocates for a particular view on this sensitive policy.

Senator Schweiker. Have any past business associates of program director Dr. Nix been hired or approved as consultants for the adolescent pregnancy program?

Mr Bohen. I cannot answer that question.

Senator Schweiker. My understanding is that they have. Do you consider past business relationships as a conflict of interest, since you consider ideological views as a conflict of interest? It would seem to me that a business relationship would be a conflict of interest.

Mr. Bohen. Without knowing the specific answers to that, I couldn't provide an answer, but——

Senator Schweiker. You will submit that for the record?

Mr. Bohen. Yes, sir.

[The information follows:]

Office of Adolescent Pregnancy Programs

Dr. Nix has no past business relationship with any of the consultants retained by the Office of Adolescent Pregnancy Programs (OAPP). Approximately 5 years ago, Dr. Nix formed a consulting organization, Professional Consultants, Inc.—Services to School Age Parents. However, this organization never became active in the field of adolescent pregnancy. In fact, because no funds were available to carry on its work, the organization never hired any consultants and never realized any income from the performance of consultant services.

Some of the consultants currently serving the OAPP have also performed services for the Delaware adolescent program, a nonprofit and largely State-funded organization of which Dr. Nix was director from 1969 to 1977, as well as for other nonprofit organizations. These individuals are among the best qualified consultants working in this narrow and highly specialized field.

As for the question whether shared ideological views amounts to a conflict of interest, it should first be noted that we do not consider the mere fact of shared concern for the problem of adolescent pregnancy and involvement in early efforts to find solutions to this problem, a conflict of interest. As noted above, the pool of available talent in this field is small; any standard that would prohibit the appointment of consultants who shared concern for this issue as an outgrowth of past work in the field would effectively place the very talent we require beyond our reach.

Senator SCHWEIKER. I'm disturbed, because I was one to pioneer this legislation with Senator Kennedy and it's somewhat of a historic compromise that we got our two groups together. It wasn't easy, frankly. It was very difficult. I got our groups lined up and Senator Kennedy got his lined up. It was, I think, rather a significant advancement. The whole concept was that there would be some kind of a balanced situation in presenting this program, that no one particular point of view would prevail. So to exclude somebody from one side of the scale when there are obviously people involved on the other side of the scale early in the program gets away from the very kind of balance that we tried to achieve. You reject one side but the other side has some input. It just seems to me that's really building groundwork to undermine the program. We worked very hard to strike a very delicate balance. Senator Kennedy and I came out with legislation that was in harmony, after working together on it very closely. It was a rather unusual procedure. We put a cease fire on the abortion war. We got it through, got the program all set up and right away somebody is ruled out because of their views on abortion. I think that's very unfortunate.

Mr. BOHEN. Senator, I think the distinction here is not the question of private views, but really public reputation and previous history of leadership and advocacy. I think that if the Surgeon General were here he would say that his decision in this case was motivated by a desire to maintain that very balance, not to erode it.

Senator SCHWEIKER. I've got to believe the Constitution has something to say about a person being discriminated against on the basis of personal views on an issue of this kind. You had no concern about a conflict of interest where somebody hires his business associates as consultants. Yet you impose an ideological test on somebody's views. It's just that I'm afraid it imbalances the program and destroys the very stability and equilibrium that Senator Kennedy and I achieved, with a great amount of work and perseverence and compromise on both sides, in setting up this program. It's rather unnerving to see it receive this kind of treatment frankly.

OK, Mr. Chairman.

Senator MAGNUSON. Now, Dr. Boyer, we only picked out certain samples pertaining to the whole HEW of the complete disregard for congressional intent. In fiscal 1978 the Office of Education was provided with a $2.8 million supplemental appropriation to meet increased postal costs.

However, an internal memo, dated September 8, 1978, and addressed to the Commissioner of Education states that there was a surplus in the Office of Education's salaries and expenses account at the end of fiscal 1978.

The memo says, "The $2 million in excess is available to us from several sources, including the mail bill supplemental which accounts for over $1.8 million of the excess. These funds can be made available to you to allocate as you see fit."

If you save some money, why, you save it. Did the Commissioner of Education actually allocate the funds as indicated in the September 8, 1978, memorandum? Do you remember? I'll put the memo in the record.

[The information follows:]

MEMORANDUM

TO : Ernest L. Boyer
Commissioner of Education

DATE: SEP - 8 1978

FROM : Acting Executive Deputy Commissioner
for Support Services

SUBJECT Available S&E Funds for Your Use Through September 30, 1978

For the past year, we have been able to provide each of the Bureaus and program areas with approximately the same amount which they received in Fiscal Year 1977. We are pleased to report that the deficit of $1,474,000, which as you recall was intentionally built into our budget at the beginning of the year, was completely made up through savings in Automated Data Processing activities and savings in permanent compensation. We have been able to identify $2,094,000 from our $131,950,700 S&E account for Fiscal Year 1978 which we are now able to declare surplus. These funds can be made available to you to allocate as you see fit.

The $2,094,000 in excess is available to us from several sources including the Mail Bill Supplemental which accounts for over $1.8 million of the excess, additional savings from permanent compensation, and funds returned by the Bureaus.

The options available to you in spending these funds may be somewhat restricted by a Presidential directive on "Control of Year End Buying." These procedures, similar to those set forth in the last quarter of Fiscal Year 1977, are designed to hold certain fourth quarter obligations to a level not to exceed corresponding third quarter obligations. We are now in the process of analyzing our third quarter obligations to determine if the directive will restrict our spending, particularly for printing and the purchasing of new equipment. We will inform you of our findings as soon as possible.

We have received a number of requests which I feel should be funded with the excess funds. They are the following:

1. Requests for additional funds for the Regional Offices:	
. Region VIII Severance Pay	$ 46,000
. Region IX Severance Pay	86,000
	$132,000
2. Remodeling of the Commissioner's and Executive Deputy Commissioners' offices.	$ 60,000
3. Supplemental funds for OPA Printing and Films. (This includes $31,600 for reprinting American Education articles on smoking and health, gifted children, teaching reading and consumer action.)	156,600
4. Funds required to carry out an OMB Mandated Readership Survey of American Education.	80,000
5. Purchase of Audio-Visual Equipment for the Horace Mann Learning Center.	25,000
6. Purchase of Word Processing equipment for OE-wide use.	131,000
7. Funds required to support contract for OE Space Planning.	10,000

8.	Funds for Departmental Tap--Planning Requirement Reform Demonstration Project. (This is an outgrowth of the zero-based planning requirements study undertaken in 1977 by the Department.)	50,000	
9.	Funds required to support the Departmental Tap--NASA Statistics Studies.	25,000	
10.	Support for FOCUS: HOPE in response to the Secretary's recent request.	136,000	
		$805,600	

This leaves you with $1,288,400 in overall S&E funds in addition to $400,000 still available in the Commissioner's S&E account. Listed below are a number of other activities which you may wish to consider supporting with these remaining funds:

1.	Health Initiative—To serve as a contingency fund for use in developing a joint initiative with the Public Health Service.	$10,000	
2.	Education Forum--To contract with one of the Forum organizations to manage meeting in Fiscal Year 1979.	90,000	OK
3.	National Association of Elementary School Principals—To fund a proposal to improve literacy skills for elementary school children.	$100,000	
4.	Institute for Development of Educational Activities, Inc.--To support the analysis of data and preparation of major reports on "A Study of Schooling in the United States."	100,000	ok
5.	Rhode Island Teachers Center Project--To support the development of a model for cooperation between a State educational agency and the AFT and NEA in teacher training programs.	200,000	upped to $298,[illegible] [illegible] X ok
6.	Baltimore Project—To participate with the Department in improving the delivery of social services to a specific geographical area.	100,000	ok'd 50,000
7.	Support of General Operating Expenses for OPBE. (These funds will be used to cover an over-expenditure for OL of $157,000 and new costs of $150,000.)	307,000	
8.	Requests for additional operating funds by Bureaus:		
	. NEH for printing	5,000	
	. BOAE for travel and equipment	10,000	
	. BSFA for reprogramming	600,000	Ok
9.	Requests for additional funds by BESE for:		
	. Support of the six unsolicited proposals listed on Attachment A.	315,717	
	. Special contract with Rainbow TV minority firm (see Attachment B).	300,000	
10.	Supplemental funds to cover special requests by the Office of Career Education for printing and contracts for the development of papers by experts in career education.	50,000	
11.	Funds for the Education Community Liaison Office to support the 1979 Training Institute for Chief State School Officers.	132,338	-ok dropped 9/20

12. Requests for additional funds from OPBE for:

• Two studies in Bilingual Education	1,100,000
• A Study of the Sustaining Effects of Compensatory Education on Basic Skills	1,550,000
• Raising the FY 1978 funding level for NDN to its FY 1977 level.	518,000

13. Planning grant from Puerto Rico to develop an Island-wide counseling system designed to meet the unique needs of Puerto Rico.	50,000 OK

I will arrange for a meeting with you and John Ellis to discuss what directions you wish to take. We need to move quickly as these funds lapse at midnight on September 30.

/S/ WILLIAM F. PIERCE

William F. Pierce

Attachments

Additional 9/22

Institutional Development Corp. Cities in Schools Acts in General Education.	$66,000
Ident. & Validating Practices to Reduce School Violence & Vandalism	$24,990
National Diffusion Network	$226,000 as of 9/19 - to get additional.

Senator MAGNUSON. I don't understand how these things operate down there—with complete disregard to the fact that we appropriated the money—I guess the mail went up 2 cents and then when you make a saving on it you advocate spending it any place you want without asking us for reprograming or rescission of the funds or anything?

Mr. BOYER. Senator, I recall the request that was made in the supplemental over a year ago on the mail expenditure, and I was given what seemed at the time to be very well documented evidence that the postal expenses would go up.

Senator MAGNUSON. Yes; and I don't discount that.

Mr. BOYER. I know, and your committee was very receptive to that. It's true that I was also advised later that we were more conservative in our expenditures than the estimate had originally projected. There was no attempt in the original estimate to deceive in any way. It was made in good faith, but at the end of the year there was more S. & E. than we had anticipated, and the mail supplemental was one source of those additional funds. I do want to say that I don't, as a matter of administrative policy, accept the notion if there's money it must be spent. That makes no sense and I had tried to make sure that our S. & E. expenditures were well related to the categories that were originally submitted.

CONTRACTS FOR CONFERENCES

Senator MAGNUSON. Now during the second half of fiscal 1978, the Office of Education spent $1.3 million to hire consultants to hold meetings and among the contracts are:

—$93,000 for the American Association of School Administrators to conduct four conferences for The Forum;

—$126,000 for the Council of Chief State School Officers for a training institute for chief State school officers—State superintendents of schools;

—$125,000 with Howard University for the celebrate excellence conference. We already appropriate $99 million for Howard; and

—$207,000 with Inter-America Research Associates to conduct miniconferences for local career education coordinators.

Now all that can be done by the staff, can't it? I don't know what the miniconference for local career education coordinators means.

Mr. BOYER. Part of the trouble I have with consultant categories is that they do include some of the conferences that have been sponsored as you mentioned. Now I have a few observations on at least the first two of those, if I might, Senator.

The Forum was an assembly of the national organizations in education and it's a unique meeting of both the two teachers' unions, the PTA, and the chief school officers. This was started by predecessors of mine. It seemed an important function for the national organizations that do not meet under any one auspice to meet periodically to look at national educational trends in consultation with the U.S. Office of Education. Your concluding question was, How many of these conferences, assuming they are meritorious, could be logistically managed by the staff? I think more could be done than in the past has been done. As a matter of fact, the first one you mentioned—namely The Forum—I believe can be done by internal staff.

Senator MAGNUSON. I understand that seven of those nine organizations are headquartered in Washington, D.C.

Mr. BOYER. Yes.

Senator MAGNUSON. And the contracts are for $93,000 for The Forum for support services. A person who attended one of the meetings receives air fare, taxi fare, $50 per diem. If the individual acts as a moderator to the meeting or gives a speech to the group, he gets $500. This is paying a lobbyist downtown. The air fare is pretty rough to see.

Mr. BOYER. Let me give an example. The Forum is comprised not only of the national administrator but also of the elected officials. In the case of the PTA, it would not only be the national administrator but the person currently elected to fill that position.

Senator MAGNUSON. The Forum consists of a president and executive director of the organization?

Mr. BOYER. That's right.

Senator MAGNUSON. And seven of the nine are headquartered here. They can take a taxi.

Mr. BOYER. Well, except the elected official does not live in the Nation's Capital. That would be the president of the National School Board Association, the National PTA, and the other organizations. Now while I didn't originate this idea, I think I certainly——

Senator MAGNUSON. No. I'll admit it's not your idea, but there's no reason why we shouldn't put a stop to this.

Mr. BOYER. Well, I certainly would defer to your judgment on that.

Senator MAGNUSON. Why can't the Commissioner and other education officials receive information from these groups without having to pay for them?

I never had to pay educators to come and tell me about education programs. They show up.

Mr. BOYER. We share that.

Senator MAGNUSON. There were 12 down here meeting at 11:30. They just showed up. We don't have to pay them anything.

Mr. BOYER. I'd just add a footnote. The footnote to The Forum is that many of those organizations, Senator, operate in isolation and talk only to themselves and meet with me in isolation, and the notion of The Forum was that, in fact, people would break out of their parochial interest and might be able, at least three or four times a year, to listen to school board members and union leaders and chief school administrators, as was envisioned by the Commissioner that originally started it.

Senator MAGNUSON. You don't have to pay them to do that.

Mr. BOYER. It was just the expense involved in that assembly, but certainly I must tell you quite straightforwardly, if in any way the investments of those dollars blur the virtue of the assembly, then I think we should look at the budget and process involved. I think the process is more important.

MEETINGS OF SCHOOL OFFICIALS

Senator MAGNUSON. What you have to do is limit the dollars of the Commissioner of Education. These people come together and they have a meeting. Every one of these organizations has a national convention here of some kind, or a legislative conference, and they come and talk to you. They get together. The U.S. Government shouldn't pay them to get together.

Here's a payment for a council of chief State school officers. The 1978 conference was held at San Padre Island, Tex. Each State superintendent received full travel costs, $35 per diem, and $50 per day consultant fees. The meeting's purpose was to give State superintendents "the opportunity to probe, exchange, and contribute to the thoughtful analysis of education issues . . . " Why do we have to pay for that? I make this observation. All the States are in the black and we are in the red, and we are paying for them to come here.

Mr. BOYER. I believe since 1972 the Office has supported an annual meeting of all of the chief school officers.

Senator MAGNUSON. Well, let them pay their own way.

Mr. BOYER. Well, just to make this point, I felt that the chief school officers are in a very real sense an administrative extension of our Office and, as you know, by law, about $5.5 billion goes from my Office to the State departments. It's a matter of good administration that we closely keep in touch with those people since they really carry out the will of Congress and we, to some extent, act as a conduit and have to hold them accountable. To meet with them as a group two or three times a year seemed a matter of high urgency to me because I had to expect them to behave in certain ways; to get plans to me, and then be accountable. So it was in the spirit of that, I'm sure, that the idea originally began. They work in my view—I have spent part of my time in two of these meetings since I have been in Office and have been impressed that they focused precisely on the important issues that they share together in administering the law that the Congress has passed at the statewide level.

Senator MAGNUSON. But they have a convention. They come here. They come here.

Mr. BOYER. That's true.

Senator MAGNUSON. I receive more State superintendents of schools than any Member of Congress.

Senator SCHWEIKER. You're very popular, Mr. Chairman.

Mr. BOYER. Well, I have felt strongly that the need——

Senator MAGNUSON. They can have a meeting here and get together and you can go down and talk to them.

Mr. BOYER. Yes. So the question is, How much time and investment we should make? The need to stay closely in touch with the law and see that they are administering it well is an urgent matter. I certainly don't in any way want to appear to spend more time doing that than the circumstances require, but I can only say that the chiefs have worked very diligently in these meetings and we have tried to take the new legislation, like the elementary and secondary education legislation, and——

Senator MAGNUSON. You don't have to do it in San Padre Island in Texas. They were all here last week.

Mr. BOYER. That's right.

Senator MAGNUSON. Did the Office of Education pay for it? They were all here last week.

Mr. BOYER. They were here for a day and a half and I spent the time with them working on the handicapped legislation and title I, and other matters and on implementing title II. That's a very brief spring meeting and then they have the summer workshop.

Senator MAGNUSON. All right. Now there's a consultant contract for meetings with the American Association of School Administrators, and let's take a close look at one of the consultant contracts that was used to hold these meetings. One was the American Association of School Administrators in Arlington, Va.

This unsolicited proposal was submitted to the Office of Education on September 28, 1978, 2 days—we were down to 3 days but this is 2 days—before the end of the fiscal year. On September 29, 1978, a consultant contract totaling $93,077 was awarded to the association.

How can the Office of Education possibly review and fund an unsolicited proposal in 1 day?

Mr. BOYER. This was, I believe, Mr. Chairman, with reference to The Forum we discussed earlier; the American Association of School Administrators was the agency that was to coordinate The Forum meeting that we just discussed.

Senator MAGNUSON. Well, a memo on this contract from the Executive Deputy Commissioner/Support Services—that's a new title—reads, "Your office has recently received a contract which would support the Education Forum activities for fiscal year 1979. This is one of the contracts which the Commissioner would like funded with excess fiscal year 1978 S. & E. salaries and expenses, funds,"—the money the Commissioner could allocate as he wanted.

Another internal OE memo reads, "Here's another must from Boyer—I read it over and it's a real dog—will need major surgery." We'll put that one in the record.

[The information follows:]

OFFICE OF THE
EXECUTIVE DEPUTY COMMISSIONER/SUPPORT SERVICES

SEP 25 1978

NOTE TO FRED WILL

Your office has recently received a contract which would support OE's Education Forum activities for Fiscal Year 1979. This is one of the contracts which the Commissioner would like to support with excess FY 1978 S&E funds.

Bill

Bill Pierce

Norm Ardi

Here's Another must
from Boyer — I Read over
& it's a dog — will need
Major surgery —

Fred
9/26

Mr. **Boyer.** Well, I'm first impressed by the clarity, but the only virtue I can see in the last memo is that the person has learned to write clearly and with feeling. I don't know who wrote it.

Senator **Schweiker.** Basic English is getting better.

Mr. **Boyer.** That's right. My course is taking.

Senator **Magnuson.** Let's go on. The September 29 Business Clearance, which is written in longhand on notebook paper, states that the Office of Education solicited this proposal. It goes on to say, "Based upon the last-minute rush job of this procurement, the amount is considered acceptable." At the end of this document is a P.S.: "I cannot attest to the fact that this is a fair and reasonable amount since time will not allow a more thorough analysis."

We'll put this in the record, too.

[The information follows:]

Business Clearance

American Association of School
Administrators /NASE
Arlington, Virginia

Sept 29, 1978

Introduction

The present unsolicited (solicited unsolicited) proposal is for support services, for the Forum of Educational Organization Leaders. The contractor will be setting up meeting (4) of the FORUM and will reimburse the expenses of the participant.

Negotiation Authority

The procurement was negotiated pursuant to 41 U.S.C. 253(c)(10)(1). The source was directed by the U.S. Office of Education Commissioner in a memorandum dated Dec 29, 1977.

Discussions with offeror

Discussions regarding the proposal were conducted Sept 28 and 29th between Jerry Melton, the principal investigator and Norman And of OE.

The followings reductions in the proposal were made

Fees were reduced to 2/3 of the amount proposed for a savings of $940

The perdiem outside of D.C. was reduced because of math errors for a savings of 2,900

The Benefit were reduced to 28.35 %
for a savings of 227
The benefits included

FICA	5.85
Unemployment tax	.80
Hospitalization	6.12
ex Married Hosp	2.32
Group Life	.50
Workman's Comp	.10
Retirement	14.68
	28.35

The per diem was reduced $1/4.00

The overhead was reduced to a not-to-exceed ceiling rate of 32%
They submitted a rate of 30.8 to

HEW in Jan 1978; however it has not been approved, and they are experiencing an increase. They agreed to a ceiling for this contract. The ~~saving~~ amount of overhead cost was reduced from $6,270 to $5,660, a reduction of $610

The total reductions are $5,077 thereby reducing the amount from $98,154 to $93,077

Based on the last minute rush job of this procurement, the amount is considered acceptable.

Norman Curtis
negotiator
9/29/78

P.S. I cannot attest to the fact that this is a fair and reasonable amount since time did not allow a more thorough analysis.

Mr. BOYER. Well, again, The Forum meetings I think are more than justified. I can say that I felt it was a justified meeting of the major associations. Now there's an interesting little footnote to that, Mr. Chairman. If my memory serves me correctly—I didn't know this was going to be discussed—but if my memory serves me correctly, for a session or two the conference arrangements were actually staffed by our Office. Frankly, it was not until the preparation for this meeting in the last day or so that I learned that that contract had been let for somebody to do outside the Office. I am convinced that it is something we probably can do internally as I think it was done for a time or two after I first came in. The staff apparently felt that this was an excessive burden, but I certainly will open the question of how that particular forum can be handled in the future. And I repeat, if there's any way in which that particular project can be carried on more efficiently, I intend to do it.

Senator MAGNUSON. I hope so.

Mr. BOYER. May I just add further, Mr. Chairman, I regret it if anybody who reviewed the proposal felt the substance, to say nothing of the process, was not of any merit. I can assure you if any question had been brought directly to my attention that this seemed to be either too speedily done or lacking in substance, I would have given it very careful thought. I do not intend in any way to justify or to ram through a program that I think can't be justified, and I have recently told Jim Pickman and others to remind me of any questions that are raised along the way, because I don't want notes put in the file that suggest this is something that shouldn't be done.

Senator MAGNUSON. So we will recess for 10 minutes.

[A brief recess was taken.]

Senator SCHWEIKER. All right. The Senate Appropriations Labor-HEW Subcommittee will reconvene. The chairman is coming back in a little while and he's asked me to ask a few of his questions as well as some of my own on the health policy. We'll go into the income maintenance requirements since I understand Mr. Heineman has a meeting he has to go to.

HEW has invested more than $111 million on income maintenance demonstration experiments. These experiments provide welfare payments for two-parent level income households in order to examine what would happen under a welfare reform plan.

I have an article published this past winter in a magazine called Policy Review which reads [reading]:

> Orca Island Resort for an all-expense paid vacation—the purpose of this weekend was to examine the results of the poverty experiment. HEW picked up the tab for this affair.

I guess my first question is, How much did this weekend cost?

Mr. HEINEMAN. Senator Schweiker, it's my understanding that the conference cost $40,000 and it was paid for by the State of Washington which sponsored the conference. The State of Washington was a contractor under the income maintenance experiments. HEW solicited competitive bids from States interested in participating in the experiments. The State of Washington won the competition and there was a line in the contract that provided for dissemination of information. I suppose it was unfortunate that it was held at Orca Island, although the sites for the experiment were in Denver and Seattle, and it's my understanding that Orca Island is about 2 hours away from Seattle.

Senator SCHWEIKER. Well, let's get that point clear. Was this State money or Federal money that was involved?

Mr. HEINEMAN. It was Federal money, but the State of Washington——

Senator SCHWEIKER. That's great. This didn't sound like your first answer.

Mr. HEINEMAN. But it was the State of Washington that held the conference. It's my understanding that they chose the site and, as I said, it was held outside of Seattle which is one of the sites of the experiment. The experiment takes place in two sites, Seattle and Denver.

Senator SCHWEIKER. And the money was Federal money subcontracted to the State of Washington which financed the conference. Is that what you're saying?

Mr. HEINEMAN. That's my understanding; yes.

Senator SCHWEIKER. Does that set a very good example of what we're trying to do in poverty? Is this the kind of life style we want to portray in terms of how we want to solve the poverty problems?

Mr. HEINEMAN. As I said, Senator Schweiker, it was probably unfortunate that it was held at this resort, although it was only a couple hours outside of Seattle. I was not present.

Senator SCHWEIKER. You missed that. I guess you're glad you missed it now.

Mr. HEINEMAN. I would note that of 135 attendees, there were only 4 or 5 from HEW. The preponderance of the attendees were from the State of Washington and from other State and local organizations and from people who had been involved in the research.

I think the purpose of the conference—regardless of the site which was perhaps unfortunate, is a valid one. These experiments have been conducted over a number of administrations and are intended to disseminate basic information about poverty and about the results of the experiment, not only within the Federal Government but to State and local governments and to academics and other interested parties. As I said, I was not present, and only a few people from HEW were there. It looks like a highly technical and busy conference on technical issues arising out of the experiments.

Senator SCHWEIKER. Out of the $111 million that's been spent on the income maintenance experiments, how much went to payments to poor families and how much went to consultants and contract expenses of the $111 million?

Mr. HEINEMAN. I'll have to provide the committee with a breakdown. I don't have that number. As to the Seattle/Denver experiments, I think the number is closer to about $75 million. But to the extent that the money went to consultants, you must understand that this project was intended as an experiment. It was to be analyzed. It was not a service project. It was to study the effect of various kinds of welfare proposals on the work effort of poor people, and I think it has been useful—certainly useful to the Government. It led to a major shift in welfare policy in the last Congress in trying to integrate jobs and jobs programs with financial assistance, and I think it's also produced useful information for the Members of Congress and for the Congressional Budget Office and for others. It has led to another kind of experiment which I think will realize great savings. Out of this experiment was developed a program for retrospective monthly reporting of income rather than having welfare recipients estimate their income on a prospective basis——

Senator SCHWEIKER. This was one of Proxmire's Golden Fleece Awards?

Mr. HEINEMAN. No; I don't believe so.

Senator SCHWEIKER. All right. Of the $111 million, the figure we have is that $82 million went to consultants and only $29 million went to the poor in terms of actual payments. You say you don't have those figures?

Mr. HEINEMAN. I don't have those figures, but this was an experiment, not a service program, and I'm sure some of that money was for computer costs——

Senator SCHWEIKER. One firm called Mathematica, Inc., received more than $32 million from these income maintenance experiments. This firm developed a computer model entitled TRIM with HEW and Community Services Administration funds. Now we financed the computer mockup and the model studies, et cetera, all paid at taxpayers' expense. Each time the data produced through the $32 million to Mathematica is sought from them it results in another consultant contract. We paid for the development of the system, the model, and now we have to pay each time we seek information from it.

For example, this year the Assistant Secretary for Planning and Evaluation is paying Mathematica $738,000 for estimating costs and caseloads of State welfare programs through a dynamic microsimulation and projection system. Is that really good business, to set somebody up with our figures and our statistics and put out the whole thing and then whenever we want to tap them we've got to pay a fee? Why wouldn't we set it up so we have some kind of reasonable use based on the $32 million cost we made in the first place?

Mr. HEINEMAN. Senator Schweiker, it's my understanding that we do, in fact, use the model in-house. In fact, it's been shared with the Congressional Budget Office and it's the basis for much of their welfare reform estimating. I think at present our relationship with Mathematica is to update the capability of the model but not to go to them every time we need to use it.

Senator SCHWEIKER. Well, how much in total have we paid for the operation of the TRIM computer model?

Mr. HEINEMAN. I'll have to provide that for the record.

Senator SCHWEIKER. And how much have we subsequently paid to use the same model we set up?

Mr. HEINEMAN. I don't have the precise figures. My sense is we pay Mathematica to update the model. We have a model in-house and use it and CBO uses it. Last year during the welfare reform debate assistance we did provide to a number of Members of Congress using it in-house.

Senator SCHWEIKER. I would like you also to provide for the record whether the Government is paying the going commercial rate for the use of such data or if we're being billed in a differential way from other people who get the same data.

Mr. HEINEMAN. We'll be happy to do that.

HEALTH POSITIONS

Senator SCHWEIKER. Now, we will go to health positions.

Mr. Bohen, how many health professionals are provided in the fiscal 1979 Labor-HEW statute?

Mr. BOHEN. Senator, as passed, the appropriations bill provided for 28,222 positions for the agencies covered by that bill.

Senator SCHWEIKER. OK. How does this compare with the health employment level at the end of fiscal year 1978 and with the year-end employment ceiling for fiscal 1979?

Mr. BOHEN. The September 30 employment levels for the agencies covered by this bill was 26,916. So that the bill authorized 1,306 additional positions beyond the actual employment level as of September 30. In the budget decisions that we made at the end of the year we allocated a ceiling of 27,067 positions, some 1,155 fewer positions than the bill had authorized, and an increase of 151 positions over the September 30, 1978, employment level.

I might say, Senator, that the resulting ceiling as a percentage of the authorized positions was 95.9 percent, the highest percent of any category in HEW, and I have a table here that I would like to put in the record that I think in a simple and direct way shows that relationship.

Senator S[illegible]IKER. All right. Without objection, so ordered.

[The table follows:]

HEW STAFFING—FISCAL YEAR 1979 AUTHORIZED POSITIONS AND PERSONNEL CEILINGS

	Authorized positions	Employment ceiling		Ceiling as percent of authorized positions	
Department overall	151,535	142,989		94.3	
Department exclusive of Public Health Service	123,313	115,922		94.0	
Public Health Service: Components with positions earmarked in Pub. L. 95–480	28,222	27,067	28,222	95.9	100.0
Office of Inspector General	1,337	1,270		95.0	95.0
Social Security Administration	80,202	75,847	75,154	94.6	93.7
Health Care Financing Administration	4,931	4,558	4,385	92.4	88.9
Office of Civil Rights	1,893	1,750		92.4	92.4
Human Development Services	1,992	1,838	1,722	92.3	86.4
Education Division	4,209	3,820	3,647	90.8	86.6
Departmental management	4,224	3,745		88.7	88.7

Note: (1) Public Health Service has the highest ceiling as percentage of authorized positions of any HEW component; (2) if PHS were limited to overall departmental ceiling percentage, a cut of 454 people would be required; and (3) if PHS were limited to the non-PHS departmental percentage, a cut of 538 would be required.

Mr. Bohen. I'm going to speak from the table because I think all the numbers that we will be talking about are highlighted here.

Senator Schweiker. So we're how many positions short of the HEW bill?

Mr. Bohen. That results in a shortfall of 1,155 positions for the agencies covered, and that needs to be set in context of HEW's overall shortfall of nearly 9,000 positions below the positions authorized by the Congress. Those numbers are right at the top of this table. The positions authorized for HEW are 151,535 and the employment ceiling which has been given to HEW by OMB is 142,989.

Senator Schweiker. Where did the 151,535 figure come from?

Mr. Bohen. That is the number of budgeted positions approved by Congress for all of our activities.

Senator Schweiker. Now why didn't you obey the law?

Mr. Bohen. Which part of it?

Senator Schweiker. The part that appropriates the money which supplies the largesse for your daily sustenance.

Mr. Bohen. I'd like to start by saying I think we have tried to obey the spirit of that law the best we can. I think this table indicates that. As I indicated, we filled 95.9 percent of the positions authorized for the health services agencies covered there. That percentage compares to all the other activities listed below there in a favorable way. We also, Senator, as you know——

Senator Schweiker. How many positions, then, are unfilled, by your calculation? How many positions did you not fill that the Labor-HEW bill asked you to fill?

Mr. Bohen. In the area of——

Senator Schweiker. In the total Department overall figure?

Mr. Bohen. Overall, we filled 8,500 positions fewer than Congress has authorized, of which 1,155 were addressed in the HEW-Labor appropriations bill.

Senator Schweiker. You see, one of the reasons for the increase is that the number of NIH grant applications has grown from 9,500 in 1973 to 18,000 this year. It's doubled. Now you can't convince me that if we're really going to get our money out of biomedical research—and I happen to be one of the strongest advocates of it here—that you should not have some kind of proportionate increase in the staff responsible for oversight of the process that dispenses these grants. We have one example coming up later on that which I think begins to illustrate the problem, that unless you have enough people involved to help oversee the money you're spending, you're going to have problems with the money you're spending.

How do you justify ignoring the law when you have the doubled number of grants and now have an obvious managerial need that any prudent manager would recognize in terms of overseeing the money expenses?

SPECIFIC AUTHORIZATIONS VERSUS GENERAL CEILINGS

Mr. Bohen. Senator, we don't have a free hand either to recommend to you or indeed to follow the specific strictures because, as you know, Congress passed the Civil Service Reform Act and imposed a broad across-the-Government ceiling on employment which was then allocated to individual agencies by the Office of Management and Budget. In HEW's case this resulted in a reduction of nearly 1,800 positions in 1979. In relative terms, in making our internal decisions within that overall ceiling which has its origins in an act of Congress, we favored the agencies covered in the appropriations bill, Public Law 95–480. As I indicated to you, there has been an increase in the positions allocated for 1979 in the Public Health Service agencies over the on-board count at the end of 1978 and that is one of the very few components of HEW that has received that treatment.

Our overall staffing, exclusive of the agencies that are covered by the Public Health Service agencies, is 94 percent of authorized positions. That's the second line on this table. That's the aggregate picture in the rest of the Department, exclusive of the Public Health Service agencies, that are covered by your appropriations bill. In those agencies we have authorized a ceiling as a percent of authorization of 95.9 percent.

Now if we had complied not only with the spirit but, indeed, with the precise letter of your direction, I have tried to indicate on this table——

Senator SCHWEIKER. Let me understand something. Isn't the figure for the Department exclusive of the Public Health Service, a subcomponent of your top figure?

Mr. BOHEN. Yes, sir. It's the difference between the overall figure and the agencies covered by the bill. It's the residual figure—residual aggregate figure.

What I would like to point out is the impact of these. I just indicated had we complied not only with the spirit but the absolute letter of your law, had we filled the 28,222 positions which were authorized by the Appropriations Act——

Senator SCHWEIKER. 28,222 where?

Mr. BOHEN. 28,222. It's on this table in two places. That is, it's in the authorized column and I have listed it separately here directly alongside 27,067.

Senator SCHWEIKER. Go ahead.

Mr. BOHEN. Since we had an overall ceiling which we couldn't violate, we would have found those 1,155 positions elsewhere in the Department. Obviously, there are any number of ways to have found those 1,155. I have indicated here one breakout which is simply a reduction of 1,155 positions from the other four major program agencies. It would have reduced the social security allowance from 75,847 to 75,154, etc. It would have reduced the Office of Education, for example, from 3,820 to 3,647 and reduced their ceiling as a percent of authorized from 90.8 to 86.6. Those are the constraints that we faced.

Senator SCHWEIKER. What requires you to do that? Why can't you use some unfilled positions in other departments of government to comply with this directive? Why does it have to be done within HEW? We don't specify that. Who does—OMB? And that's our argument. You see, you're putting yourself into a constraint that we have not put you in, but OMB has put you in, and that's our argument here.

Mr. Bohen. We did not put ourselves in that constraint. The Congress passed a law that gave the Government overall——

Senator Schweiker. Exactly right.

Mr. Bohen. They, in effect, left it to a central agency.

Senator Schweiker. To obey the law.

Mr. Bohen. To allocate the Department——

Senator Schweiker. And there's nothing inconsistent with having an overall ceiling and having a specific target in HEW or any other department that we designate. We didn't designate the other departments had to fill certain quotas. So you could easily subtract it from the other areas. OMB elected not to do that. They elected to ignore the Labor-HEW law and do it pro rata which violates what we told them to do. I don't think Congress is inconsistent. It set only an overall ceiling, not a subceiling for HEW. We're not mandating both. We're mandating in this case only an overall ceiling and a target for HEW. OMB elected to ignore the latter and do a pro rata allocation which you have here.

Mr. Bohen. I can't speak for OMB.

Senator Schweiker. This always boils down to OMB.

Mr. Bohen. It's binding on us.

Senator Schweiker. Isn't our law binding on you?

Mr. Bohen. Yes, sir.

Senator Schweiker. That's the issue.

Mr. Bohen. Yes, sir. We're bound by a variety of different things.

Senator Schweiker. There's nothing inconsistent in what we're asking you to do here because we do not set other department goals in any way. OMB does. So they elect to violate one law and cite the other law as the reason they are violating that law when they don't have to do it. That's my objection to your approach. Before we had Leach, OMB was doing the same thing. So this business of saying Leach is the reason we're violating—for *x* years we didn't have Leach and they were doing exactly the same thing. Then we put target figures into the bill and now OMB uses the Leach excuse. There's no reason you can't obey the Leach law and our law, absolutely no reason, except OMB doesn't want to.

Mr. Bohen. Senator, let me go further. We could fill the precise letter of your law and allocate the Public Health Service 100 percent of the authorized positions. I have tried to indicate here and one reasonable potential impact on all our other programs, given the overall ceiling, and I think——

Senator Schweiker. No. This is where I'm differing with you. You're saying you have to take it out of something else's hide in HEW.

Mr. Bohen. That's the only choice I have, or the Secretary has, when a figure comes down.

Senator Schweiker. No, you don't. You have Congress' choice. We mandated a total ceiling and in this instance we mandated a subceiling. There's nothing inconsistent. It doesn't all have to come out of your Department.

Mr. Bohen. If OMB were here they would say they took that guidance in the legislation into account.

Senator SCHWEIKER. How on earth did they do that?

Mr. BOHEN. The real situation is that the Leach ceiling is a very, very tight ceiling. It mandates that the Government get back in 1979 to the employment levels as of September 30, 1977, at a time——

Senator SCHWEIKER. What are those figures?

Mr. BOHEN. I do not have those governmentwide.

Senator SCHWEIKER. Are we below those figures? Are we above those figures?

Mr. BOHEN. HEW's picture is as follows: HEW's picture is that its ceiling for 1979——

Senator SCHWEIKER. You keep saying that, and I keep saying that's irrelevant.

Mr. BOHEN. Isn't it relevant to the decisions we make?

Senator SCHWEIKER. It's irrelevant to the issue that you folks haven't followed the law. That's exactly the point. We have been quarreling and fighting with OMB for I don't know how many years and all we have specified is—in fact, I talked to Congressman Leach and he said positively there's nothing inconsistent between what he's requiring and what we're requiring. It was never intended to subtarget the Leach goal. All we have done is subtarget one area of the goal.

Mr. BOHEN. The Leach amendment is inconsistent with Congress in this sense: its authority for hiring is substantially below, not only in HEW but across the Government, the positions that Congress has by other acts, including this committee, authorized. It is substantially below. In our Department it's 8,500 below. It has the impact of being 8,500 positions below.

Senator SCHWEIKER. If the Congress authorized for each department what we authorized for HEW, you would be right. But we do not do that, and that's why I maintain you're not right. We do not set a subgoal for each department. We set an overall figure in this case, one goal. That leaves x percent unset. So OMB comes in and says, "Hey, you can't do that. We're going to set subgoals for everybody, including you, and follow yours instead of what Congress said."

Mr. BOHEN. I think Leach left the Government in a situation in which it had an overall figure and somebody had to parcel out over the departments that——

Senator SCHWEIKER. Right. Why wouldn't you parcel it out in accordance with the specific law?

Mr. BOHEN. As I think they would say, they took that law into account.

Senator SCHWEIKER. They couldn't have. They ignored the law. Here it's specifically, 42 U.S. Code 241 for carrying out the section 301 of the Public Health Service Act with respect to cancer, $971 million, including 2,282 full-time positions. We want to give Dr. Upton the people he needs to oversee some of these programs. Some of his programs are being criticized. In fairness to him, he can say he doesn't have the personnel to manage that and he's right. That's our objection. That's where I differ with OMB.

Mr. **Bohen**. I want to correct the record on that. The OMB gives us an aggregate figure and then we make the internal figures.

Senator **Schweiker**. And our quarrel is somebody down there decides they are going to thumb their nose at the Appropriations Committee and OMB is going to follow. Well, obviously, we've put the dispute in the record and I have made my point and you have made your point. So at this point I'll turn it back to the chairman of the committee.

PREPARED STATEMENT

Senator **Magnuson**. As we stated earlier in the hearing, your statement will appear at this point in the hearing, without objection.

[The statement follows:]

STATEMENT OF FREDERICK M. BOHEN

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE ON BEHALF OF THE SECRETARY TO REVIEW THE DEPARTMENT'S USE OF THE SERVICES OF CONSULTANTS, AND TO SPECIFY THE CONTROLS WE HAVE IMPOSED TO INSURE IMPROVED ACCURACY AND ACCOUNTABILITY FOR THIS AREA OF THE DEPARTMENT'S EXPENDITURES.

AS THE COMMITTEE REQUESTED, I AM ACCOMPANIED BY MY COLLEAGUES BEN HEINEMAN, HEW'S ASSISTANT SECRETARY FOR PLANNING AND EVALUATION; DR. ERNEST BOYER, THE COMMISSIONER OF EDUCATION; AND DR. ARTHUR UPTON, THE DIRECTOR OF THE NATIONAL CANCER INSTITUTE.

AT THE OUTSET, I WOULD LIKE TO STATE BRIEFLY WHY HEW NEEDS TO EMPLOY CONSULTANTS FOR CERTAIN TASKS AND RESPONSIBILITIES WE HAVE. WE RECOGNIZE THAT THE USE OF OUTSIDE CONSULTANTS IS A SENSITIVE MATTER, AND THAT THERE ARE EXAMPLES OF BOTH MISUSE AND ABUSE IN SUCH ARRANGEMENTS.

IN MANY INSTANCES, HOWEVER, OUTSIDE CONSULTANTS ARE INDISPENSABLE PRECISELY BECAUSE THEY ARE EXTERNAL SPECIALISTS IN A FIELD, AND CAN SUPPLY US WITH INDEPENDENT AND FRESH VIEWPOINTS.

FOR EXAMPLE:

o FOR MORE THAN TWO YEARS THE SECRETARY HAS BEEN STRIVING TRULY TO DIRECT AND MANAGE THE FULL ARRAY OF HEW'S RESPONSIBILITIES -- FROM THE TOP DOWN. HE HAS LAUNCHED SEVERAL INITIATIVES - SMOKING AND HEALTH, THE IMPROVEMENT OF ST. ELIZABETH'S, THE DEVELOPMENT OF PERFORMANCE INDICATORS FOR HEAD START, THE REDUCTION OF FRAUD AND ABUSE IN STUDENT AID AND OTHER MAJOR HEW PROGRAMS - WHERE CONSULTANTS HAVE PLAYED A VALUABLE

ROLE, AT THE OUTSET OF THESE PROJECTS, IN STIMULATING THE DEPARTMENT TO CONSIDER OLD PROBLEMS IN NEW WAYS.

- IN MANY CASES, WE USE CONSULTANTS TO CONDUCT TASKS WHERE WE SIMPLY DO NOT HAVE STAFF EXPERTISE AVAILABLE, OR WHERE IT WOULD BE INEFFICIENT TO HIRE EXPERTS AS PERMANENT EMPLOYEES FOR WHAT ARE ESSENTIALLY ONE TIME TASKS. IN THE AREA OF EVALUATION, WE USE CONSULTANTS TO ENSURE, TO THE MAXIMUM EXTENT POSSIBLE, AN INDEPENDENT ASSESSMENT OF THE PROGRAMS WE MANAGE. IF WE DID PROGRAM EVALUATIONS INTERNALLY, WE WOULD, AS GAO HAS POINTED OUT, BE SUBJECT TO CHARGES OF BIAS AND SUBJECTIVITY.

EVALUATIONS HAVE BEEN USEFUL TO BOTH THE CONGRESS AND THE DEPARTMENT. LET ME CITE SOME EXAMPLES:

(1) TITLE I EDUCATION FOR THE DISADVANTAGED

THE $15 MILLION EVALUATION OF THE DEPARTMENT'S $3 BILLION TITLE I PROGRAM WAS MANDATED BY CONGRESS IN 1974. THE CONGRESS USED THIS EVALUATION TO REVISE THE ALLOCATION FORMULAS, CHANGE PROGRAM REQUIREMENTS, AND FOR TECHNICAL AMENDMENTS TO THE REAUTHORIZATION BILL.

(2) BILINGUAL EDUCATION

THE EDUCATION DIVISION HAS CONDUCTED AN IMPORTANT EVALUATION OF THE $150 MILLION BILINGUAL EDUCATION PROGRAM. CONGRESS USED THE EVALUATIONS IN WRITING THE EDUCATION AMENDMENTS OF 1978, WHICH CLARIFIED THE PRIMARY PURPOSES OF THE PROGRAM. ANOTHER RECENT STUDY BY THE NATIONAL INSTITUTE FOR EDUCATION PROVIDED BASE-LINE INFORMATION, WHICH WAS NEVER BEFORE AVAILABLE, ON THE NUMBER OF LIMITED ENGLISH-SPEAKING CHILDREN NATIONWIDE.

(3) HEAD START

NUMEROUS EVALUATIONS OF THE HEAD START PROGRAM HAVE ASSISTED HEW TO MAKE REVISIONS TO BETTER MEET THE NEEDS OF CHILDREN IN THE PROGRAM.

(4) NATIONAL HEALTH SERVICE CORPS

EVALUATIONS HAVE LED TO BETTER UNDERSTANDING AND IMPROVEMENTS IN THIS FAST GROWING PROGRAM TO INCREASE HEALTH SERVICES IN UNDERSERVED AREAS.

o FINALLY, WE USE OUTSIDE CONSULTANTS BECAUSE WE ARE CAUGHT BETWEEN THE COMPETING PRIORITIES OF REDUCED PERSONNEL CEILINGS AND THE VERY REAL DEMANDS — FROM CONGRESS, FROM THE WHITE HOUSE AND OMB, AND FROM AN ACTIVIST SECRETARY FOR EVER GREATER AMOUNTS OF INFORMATION ABOUT OUR PROGRAMS.

- THE LEACH AMENDMENT REDUCES OUR FY 79 PERSONNEL CEILINGS TO LEVELS BELOW OUR ON-BOARD STRENGTH IN FY 78 - 142,989 VERSUS 143,644 FULL-TIME PERMANENT POSITIONS.
- IN CONTRAST, WE MUST PRODUCE MORE AND MORE INFORMATION TO SATISFY: (1) THE NEEDS OF CONGRESS, WHICH MANDATED 12 MAJOR STUDIES IN THE 1978 EDUCATION AMENDMENTS ALONE, (2) THE SECRETARY'S INITIATIVES TO REDIRECT AND MORE EFFECTIVELY MANAGE THE DEPARTMENT'S EFFORTS, AND (3) THE INCREASED NEEDS OF OUR PROGRAM MANAGERS (THE NUMBER OF HEW PROGRAMS GREW FROM 381 IN FY 77 TO 415 AT PRESENT) FOR INFORMATION ON THE EFFICIENCY, EFFECTIVENESS AND RESPONSIVENESS OF OPERATING PROGRAMS AND PILOT PROJECTS.

NEVERTHELESS, ALTHOUGH CONSULTANTS PLAY AN IMPORTANT ROLE IN OUR PROGRAMS, WE RECOGNIZE THE NEED FOR ECONOMY AND

PRUDENCE IN THEIR USE. SPURRED BY THE INTEREST AND CONCERN OF THIS COMMITTEE, WE HAVE TAKEN THE FOLLOWING STEPS TO CONTROL OUR USE OF CONSULTANTS.

FOR CONTRACTS WITH FIRMS

- WE SHARE THE COMMITTEE'S DESIRE TO LIMIT THE RATE OF INCREASE OF OUR EXPENDITURES FOR THESE SERVICES. FOR FISCAL YEAR 1980, THE UNDER SECRETARY HAS ALREADY DECIDED TO HOLD EXPENDITURES FOR CONSULTANT SERVICES AT OR BELOW THE STATUTORY CEILING YOU ESTABLISHED FOR FY 79 - $194 MILLION. THIS IS OVER $60 MILLION LESS THAN OUR AGENCIES HAVE REQUESTED THROUGH THEIR PRELIMINARY ESTIMATES OF FY 80 EXPENDITURES. THROUGH LIMITATION, WE INTEND TO FUND ONLY THE MOST MERITORIOUS PROJECTS IN FY 80. IF THE COMMITTEE AGREES, WE PROPOSE TO HOLD THE RATE OF INCREASE FOR EXPENDITURES FOR CONSULTANT SERVICES IN FY 81 AND BEYOND TO NO GREATER THAN THE RATE OF INCREASE OF INFLATION.

- TO ENSURE THAT WE ACCOUNT PRECISELY FOR THE AMOUNTS WE EXPEND THROUGH CONTRACTS ON CONSULTANT SERVICES IN FY 79, WE ARE REQUIRING THIS YEAR THAT ALL COMPONENTS ESTABLISH SEPARATE ACCOUNTS FOR CONSULTANT SERVICES AND FOLLOW FORMAL ACCOUNTING REQUIREMENTS. IN THE PAST, WE RELIED ON STAFF OFFICE TO KEEP MEMORANDA RECORDS OF EXPENDITURES. THIS YEAR, WE ARE REQUIRING EACH HEW OFFICIAL TO APPLY FORMAL ALLOCATION AND ALLOTMENT PROCEDURES TO CONTROL FUNDS THEY PLAN TO USE FOR CONSULTANT SERVICES. IN ADDITION, WHEN THEY EXPEND FUNDS FOR CONSULTANT SERVICES, THEY MUST FORMALLY RECORD THE EXPENDITURES AGAINST ACCOUNTS ESTABLISHED UNIQUELY FOR CONSULTANT SERVICES. THIS WILL ENABLE US TO RETRIEVE ACCURATE DATA AT ANY POINT DURING THE YEAR.

- WE WILL CONTINUE CENTRALIZED REVIEW PROCESSES TO MAKE INTERNAL CEILING ALLOCATIONS AMONG OUR AGENCIES. IN RESPONSE TO YOUR CEILING FOR FY 79, WE INSTITUTED A PROCESS WHEREBY EACH AGENCY SUBMITS TO THE OFFICE OF THE SECRETARY A LIST OF PROJECT DESCRIPTIONS IN PRIORITY ORDER. MY COLLEAGUE, THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, AND I REVIEW THESE PROJECTS WITH OUR KEY STAFF AND MAKE RECOMMENDATIONS TO THE UNDER SECRETARY WHO MAKES FINAL ALLOCATIONS OF THE CONSULTANT SERVICES CEILING TO THE AGENCIES.

- WE WILL ALSO CONTINUE TO REQUIRE THE HEAD OF EACH AGENCY OR HIS/HER DEPUTY TO CERTIFY PERSONALLY THE REQUEST FOR CONTRACT FOR ALL CONSULTANT SERVICES PROJECTS VALUED AT $25,000 OR MORE. WE INTEND TO AUGMENT THESE RATHER RIGOROUS PROCEDURES BY CONDUCTING SPECIAL SELECTIVE AUDITS OF COMPLETED CONSULTANT SERVICES PROJECTS TO DETERMINE THE DEGREE TO WHICH THEY MET THE OBJECTIVES OF THE CONTRACT AND THE IMPACT OF THE WORK ON PROGRAM POLICIES OR OPERATIONS.

- IN THE AREA OF EVALUATION (WHICH WILL ACCOUNT FOR APPROXIMATELY 1/3 OF THE $194 MILLION WE INTEND TO SPEND IN FY 79 ON CONSULTANT SERVICES), THE SECRETARY RECENTLY APPOINTED A SENIOR OFFICIAL AT THE DEPUTY ASSISTANT SECRETARY LEVEL - MR. JOSEPH WHOLEY, WHO IS WITH US TODAY - WITH FULL TIME RESPONSIBILITY FOR OVERSEEING THE DEPARTMENT'S EVALUATION ACTIVITIES. MR. WHOLEY HAS A CAREFUL PROGRAM TO IMPROVE THE QUALITY OF OUR EVALUATION PROJECTS, WHICH HE WILL DESCRIBE IF YOU HAVE QUESTIONS. IN ADDITION, MR. WHOLEY AND THE OFFICE OF THE SECRETARY STAFF REVIEW AND APPROVE EVERY NEW EVALUATION PROJECT, AT THE CONCEPT STAGE, AND, FOR MANY PROJECTS, ALSO AT THE REQUEST FOR PROPOSAL STAGE.

WHAT WE HAVE DONE AND WILL DO TO CONTROL APPOINTIVE CONSULTANTS

- YOU HAVE INVESTIGATED AND CRITICIZED DEPARTMENTAL PROCEDURES AND PRACTICE RELATING TO THE USE INDIVIDUALS AS APPOINTIVE CONSULTANTS. HEW SPENT APPROXIMATELY $12 MILLION IN THIS AREA IN FY 78. IN DECEMBER, ON MY RECOMMENDATION, THE UNDER SECRETARY PLACED A SPECIAL CAP LIMITING THE EXPENDITURES OF EACH COMPONENT FOR THESE APPOINTMENTS TO 90% OF THE AMOUNTS EXPENDED FOR APPOINTIVE CONSULTANTS IN FY 78.

- AS YOUR INVESTIGATIVE STAFF HAS POINTED OUT, DEFICIENCIES IN OUR REPORTING PROCEDURES CAUSED US TO OVERLOOK IN OUR REPORT TO YOU CERTAIN CONSULTANTS IN THE OFFICE OF THE SECRETARY WHO RECEIVED MORE THAN $25,000 IN COMPENSATION IN FY 78. WE ARE TAKING THE STEPS RECOMMENDED BY YOUR INVESTIGATIVE STAFF TO ENSURE THAT THIS WILL NOT HAPPEN AGAIN.

  I WANT ESPECIALLY TO EMPHASIZE THAT THE DEFICIENCIES IN OUR REPORTING SYSTEMS AND RECORDS WERE JUST INADEQUATE OR INEFFECTIVE RECORD-KEEPING PROCEDURES -- AND NOT IN ANY WAY ATTEMPTS TO MISLEAD THIS COMMITTEE AS TO DEPARTMENTAL PERFORMANCE IN THIS AREA.

- WITH REGARD TO THE PROBLEMS WE HAVE HAD IN THE OFFICE OF THE SECRETARY, I TOOK STEPS IN JANUARY, AS NOTED BY YOUR INVESTIGATIVE STAFF, TO ENSURE THAT WE ADHERE STRICTLY TO THE LETTER OF PRESENT PERSONNEL REGULATIONS. I CAN DESCRIBE IN DETAIL THE STEPS WE HAVE TAKEN, IF YOU WISH. IN SUMMARY, SINCE AUGUST 1978, THE NUMBER OF APPOINTIVE CONSULTANTS ON BOARD IN THE OFFICE OF THE SECRETARY HAS DROPPED FROM 130 TO 79, OR 39%. DURING THE LAST QUARTER (JANUARY - MARCH 1979), WE MADE 14 NEW APPOINTMENTS, (EXCLUDING 5 ADVISORY COMMITTEE MEMBERS) BUT REJECTED

26, OR 65% OF ALL REQUESTS FOR EXPERTS AND CONSULTANTS. I CAN ASSURE YOU THAT ALL FUTURE APPOINTMENTS WILL ADHERE STRICTLY TO ALL PROCEDURAL AND REGULATORY REQUIREMENTS.

PLANS FOR THE FUTURE

WE BELIEVE WE CAN CONTINUE TO REFINE THE MECHANISMS I HAVE DESCRIBED TO OBTAIN BETTER CONTROL OVER, AND MORE USABLE RESULTS FROM, OUR CONSULTANT SERVICES PROJECTS. SUBJECT TO YOUR APPROVAL, AS I INDICATED EARLIER, WE INTEND TO STAY WITHIN AN INTERNAL CEILING OF $194 MILLION IN FY 80, AND LIMIT FUTURE GROWTH TO NO MORE THAN THE RATE OF GROWTH OF INFLATION.

WE DO ASK FOR RELIEF FROM YOUR COMMITTEE IN TWO AREAS - THE STATUTORY CEILING ON SPENDING AND THE DEFINITIONS WE ARE USING FOR CONSULTANT SERVICES. WE ASK THAT THE STATUTORY CEILING BE DROPPED ONLY IN ORDER TO OBTAIN SOME LIMITED FLEXIBILITY IN AN AREA, WHICH BY ITS VERY NATURE, DEMANDS FLEXIBILITY.

WE HAVE HEARD YOUR COMMITTEE'S MESSAGE ABOUT THE NEED FOR GREATER CONTROLS, WE AGREE WITH IT, AND WE WILL ACT ACCORDINGLY. HOWEVER, WE FEEL A STATUTORY CEILING ON FUNDING IMPOSES TOO GREAT A DEGREE OF RIGIDITY AND FINALITY TO AN AREA WHERE WE ARE SUBJECT TO NUMEROUS AD-HOC PRESSURES. PROGRAM MANAGERS CANNOT PREDICT, WITH PRECISION, THE TYPES OF CONSULTANT SERVICES THEY WILL REQUIRE DURING A FISCAL YEAR. THROUGHOUT THE YEAR, KEY MEMBERS OF HEW'S AUTHORIZING COMMITTEES IMPOSE REQUIREMENTS UPON US FOR ADDITIONAL STUDIES. AS WE CONTINUE TO PRESS OUR FIGHT TO REDUCE FRAUD, ABUSE, AND WASTE, WE IDENTIFY OPPORTUNITIES WHERE THE USE OF EXTERNAL EXPERTS IS MOST COST BENEFICIAL. IN ALL THESE CASES, WE HAVE GREAT

DIFFICULTY PREDICTING OUR NEEDS FOR CONSULTANTS MORE THAN A FEW MONTHS IN ADVANCE.

TO MEET UNEXPECTED, EXTRAORDINARY DEMANDS FOR CONSULTANT SERVICES, WITHOUT HAVING TO GO THROUGH THE ARDUOUS PROCESS OF RESCISSIONS, DEFERRALS OR SUPPLEMENTAL BUDGET REQUESTS, WE ASK FOR RELIEF FROM THE STATUTORY CEILING. IN RETURN FOR THIS RELIEF WE PLEDGE TO CONSULT WITH YOU PRIOR TO SETTING OUR INTERNAL, ADMINISTRATIVE CONTROLS, NOT TO EXCEED THOSE LIMITS WITHOUT YOUR PRIOR APPROVAL, AND TO PROVIDE YOU WITH WHATEVER INFORMATION WE CAN ON OUR USE OF CONSULTANT SERVICES.

WITH REGARD TO THE PRESENT STATUTORY DEFINITION OF CONSULTANT SERVICES, WE HAVE SOME PROBLEMS. THE PRESENT DEFINITION EVOLVED OVER THE YEARS AS A RESULT OF YOUR INTERESTS IN VARIOUS AREAS AND OUR INTERPRETATION OF THOSE INTERESTS. AT THE PRESENT TIME, THE DEFINITION CONTAINS FOUR CATEGORIES OF SERVICES PROVIDED BY CONSULTANTS:

(a) ADVICE AND ASSISTANCE TO HEW STAFF
(b) ADVICE AND ASSISTANCE TO HEW-FUNDED ORGANIZATIONS
(c) SERVICES IN CONNECTION WITH SURVEYS
(d) PROGRAM EVALUATION STUDIES

THIS DEFINITION EXCLUDES VIRTUALLY ALL RESEARCH, SERVICES PROVIDED TO STATE AND LOCAL GOVERNMENTS AND GRANTEES, AND 26 OTHER CATEGORIES OF TASKS. THE DEFINITION IS VERY DIFFICULT TO INTERPRET IN DRAWING DISTINCTIONS BETWEEN PROVIDING ASSISTANCE/ADVICE AND CARRYING OUT OPERATIONAL TASKS, SUCH AS THE ACTIVITIES TRACO-JITCOR PERFORMS FOR NIH. THUS, WE HAVE HAD DIFFICULTIES WITH PROPERLY CATEGORIZING ITEMS FOR PURPOSES OF MAKING REPORTS ON CONSULTANT SERVICES. FOR EXAMPLE, A RECENT REVIEW OF OUR CONSULTANT CONTRACT COSTS IN FY 78 SHOWED THAT AS MUCH AS 25% COULD BE

CONSTRUED AS PERTAINING TO RESEARCH AND DEVELOPMENT — A CATEGORY EXCLUDED FROM THE DEFINITION.

AT THE FIRST OPPORTUNITY, WE WOULD LIKE TO REOPEN DISCUSSION WITH THE COMMITTEE, ON A STAFF-TO-STAFF BASIS, TO REVISE THE DEFINITION SO THAT BOTH YOU AND WE KNOW PRECISELY THE TYPES OF ACTIVITIES WE ARE CONTROLLING -- AND SO THAT WE CAN BETTER MEET AND SATISFY THE PRIMARY CONCERNS OF THE CONGRESS.

WHILE WE ASK FOR RELIEF FROM THE STATUTORY CEILING, AND HOPE TO NEGOTIATE SOME CHANGES TO THE CURRENT DEFINITION, I CAN ASSURE YOU THAT WE WILL ADHERE STRICTLY TO OUR INTERNAL CEILINGS, PROVIDE YOU WITH WHATEVER REPORTS YOU NEED, AND TAKE THE OTHER ACTIONS I HAVE DESCRIBED. SPECIFICALLY:

- WE WILL SET AN INTERNAL CEILING OF $194 MILLION FOR FY 80, AND NOT EXCEED IT WITHOUT YOUR PRIOR APPROVAL.
- WE WILL HOLD INCREASES IN CEILINGS FOR FY 81 AND BEYOND, TO NO GREATER THAN THE RATE OF INCREASE IN INFLATION, AND NOT EXCEED THESE LEVELS WITHOUT YOUR PRIOR APPROVAL.
- WE WILL ACCOUNT STRICTLY AND FORMALLY FOR ALL FUNDS SPENT BY CONTRACT FOR CONSULTANT SERVICES.
- WE WILL CONTINUE CENTRALIZED REVIEW OF DESCRIPTIONS OF ALL CONSULTANT PROJECTS AND INTENSIVE DETAILED CENTRALIZED REVIEWS OF ALL EVALUATION PROJECTS.
- WE WILL ADD SPECIAL OFFICE OF THE SECRETARY AUDITS TO ASSESS THE USEFULNESS OF A SAMPLE OF COMPLETED CONSULTANT PROJECTS.
- WE INTEND TO CONTINUE TO CONTROL THE USE OF THE SUB-CATEGORY OF APPOINTIVE CONSULTANTS.

- WE WILL MAKE THE NECESSARY SYSTEMS CHANGES TO GUARANTEE THAT WE REPORT TO YOU ALL APPOINTIVE CONSULTANTS WHO ARE PAID $25,000 OR MORE DURING A FISCAL YEAR.

- WE INTEND TO ENFORCE RIGOROUSLY THE PROCEDURES AND REGULATIONS APPLYING TO THE PROPER USE OF APPOINTIVE CONSULTANTS.

- FINALLY, I PLEDGE TO YOU, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THAT I HAVE ALREADY ACCEPTED PERSONAL RESPONSIBILITY TO ENSURE WE TAKE ACTIONS NEEDED ALL THROUGH THE DEPARTMENT TO HOLD IN CHECK OUR EXPENDITURES FOR CONSULTANTS AND INCREASE THE UTILITY OF INDIVIDUAL PROJECTS IN THE FUTURE.

MY COLLEAGUES AND I ARE PLEASED TO TRY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

GENERAL ACCOUNTING OFFICE

STATEMENT OF PHILIP A. BERNSTEIN, DEPUTY DIRECTOR, HUMAN RESOURCES DIVISION

ACCOMPANIED BY:

MATTHEW SOLOMON, ASSISTANT DIRECTOR
ROD RAGAN, AUDIT MANAGER

INTRODUCTION OF ASSOCIATES

Senator MAGNUSON. Well, we have asked Mr. Matthew Solomon, who heads the Audit Section at NIH, to describe the information that he has obtained relevant to the issues we are raising at this hearing.

Mr. BERNSTEIN. I'm Philip Bernstein, Deputy Director of the Human Resources Division of GAO, and I have a prepared statement. Matthew Solomon is on my left. He's the Assistant Director of our Division who's responsible for our audit work at the National Institutes of Health; and I'm also accompanied by Rod Ragan, who was directly in charge of the review that I will be discussing, if that's permissible, Mr. Chairman.

Senator MAGNUSON. All right. Go ahead.

Mr. BERNSTEIN. I am pleased to be here today to discuss certain aspects of the operations of the National Cancer Institute's carcinogenesis programs. Pursuant to a request from Representative Henry A. Waxman, we reviewed the work done by Tracor-Jitco, Inc., of Rockville, Md., which was awarded a prime contract for the management of bioassay activities. We also reviewed NCI's efforts to monitor the contractor's work. In performing our review, we obtained only limited information pertaining to the award and subsequent modifications to the contract and did not review the manner in which the contractor accounted for costs. The results of our review are contained in our March 30, 1979, report to Representative Waxman.

In December 1971 the National Cancer Act was enacted to advance the national effort against cancer. The act established a national cancer program and the NCI plan adopted to implement the program emphasized the importance of carcinogenesis activities and, in particular, the identification of carcinogenic hazards.

As part of NCI's carcinogenesis activities under the national cancer program, it attempts to identify whether a chemical causes cancer by conducting bioassay tests. Until 1974, NCI contracted directly with laboratories to perform these tests. However, staffing shortages led NCI to contract with Tracor-Jitco, in March 1974, to manage its bioassay activities. Pursuant to this arrangement, NCI no longer contracted directly with laboratories; instead Tracor-Jitco subcontracted with laboratories to perform bioassays.

NCI's original contract with Tracor-Jitco, which was awarded competitively, was to run from March 1974 to May 1975 at a cost of about $6.6 million. NCI has subsequently modified the contract several times without competition and extended the completion date from May 1975 to May 1979. The most significant increase in the contract occurred in June 1975 when NCI increased the contract's total amount from about $6.6 million to $41.3 million.

Under this modification, NCI increased Tracor-Jitco's workload and broadened its responsibilities for developing a system for reporting bioassay test results to include the preparation of technical reports.

In justifying this noncompetitive modification, NCI stated that its purpose was to develop a contractor capable of providing technical and managerial support for all aspects of bioassay activities and that the proposed work was considered a logical extension of past and ongoing work.

Under the contract, Tracor-Jitco is paid for its costs of performing the agreed upon work—currently estimated to total $39.7 million—a fixed fee of about $198,000, and an award fee of about $3.2 million depending upon NCI's satisfaction with the contractor's performance. According to the NCI contracting officer responsible for the contract, Tracor-Jitco had the opportunity to earn about $2.9 million of the $3.2 million through January 1979. NCI, however, has awarded Tracor-Jitco only $1.6 million, or about 55 percent of the award fee. While NCI told us during our review that it planned to slightly extend the Tracor-Jitco contract past May 1979 to allow Tracor-Jitco to complete agreed-upon work, we have just learned from the NCI contracting officer that NCI plans to extend the contract for an additional 4 years at an additional cost of about $65 million. About $3.3 million of this proposed award is for an additional award fee.

NCI's monitoring of Tracor-Jitco's efforts in preparing bioassay reports was good; however, NCI's monitoring of Tracor-Jitco's management of other bioassay activities has been inadequate. NCI relied primarily on summary reports from Tracor-Jitco to assess its bioassay performance and did little independent verification. As a result, NCI was unaware that Tracor-Jitco did not include in its summary reports to NCI all laboratory deficiencies found by Tracor-Jitco inspectors; did not assure that deficiencies were corrected; and did not detect certain deficiencies which we found during our laboratory inspections that could affect the quality of bioassays.

Since NCI was not aware of these matters, it did not have important information which should have been used to determine the amount of the award fee paid to Tracor-Jitco. We believe that when an award fee type of contract is used, it is not prudent management to rely on the contractor to report problems which could affect the amount of profit the contractor can earn.

In summary, we believe that NCI has not adequately monitored Tracor-Jitco's performance in managing bioassay testing activities. We recommended that the Secretary of Health, Education, and Welfare require the Director of NCI to: (1) more closely monitor the performance of Tracor-Jitco by making more frequent site visits to the subcontractor laboratories, and by verifying that Tracor-Jitco has required the laboratories to correct deficiencies found during inspections, and (2) use this information in determining the amount of the award fee. In response to our recommendation for improved contract monitoring, NCI has already required the contractor to submit full reports on its inspections of subcontractor laboratories. NCI also has assigned additional project officers to monitor each subcontractor laboratory and a chemical manager for each chemical assigned to bioassay under Tracor-Jitco's responsibility.

Mr. Chairman, this concludes our statement. We shall be happy to answer any questions that you or other members of the subcommittee might have.

Senator MAGNUSON. Well, I think the statement speaks for itself. This outfit was making their own report card, weren't they?

Mr. BERNSTEIN. In effect; yes.

Senator MAGNUSON. They were making their own report card. And you state in the end that NIH is attempting to correct the situation.

Mr. BERNSTEIN. Yes; that's correct.

Senator MAGNUSON. Have you found any other programs at NIH that allow outside companies to manage contracts?

Mr. BERNSTEIN. I'd like to ask Mr. Solomon to respond to that.

Mr. Solomon. We have had an opportunity, Mr. Chairman, to check with the contracting officers of four other Institutes at the National Institutes of Health. They all assure me they have no contracts similar to the type of contract we are discussing here where they have allowed the contractor to manage any portion of their programs.

Senator MAGNUSON. What kind of company is this Tracor-Jitco? Has it got that many people employed or is it just an office or what is it?

Mr. Ragan. It's a subsidiary, as we understand it, of a parent firm which is Tracor, Inc., which is diversified into many activities. They have a division heavily involved in marine biology and I believe they are located in Florida. The portion of the organization that we are discussing here today is primarily a management-type organization. The individuals involved in the Cancer Institute's contract are primarily scientists. The individual who was the director of the program at the time we did our review was, I believe, a veterinary pathologist. It has been a problem for the Cancer Institute in trying to get this specialty.

So in answer to your question, it's basically a diversified firm.

Senator MAGNUSON. Well, Dr. Upton, what have you got to say about this?

NEED FOR THE TRACTOR-JITCO CONTRACT

Dr. UPTON. Mr. Chairman, I think that the GAO report has indeed revealed deficiencies in the program which we have sought to correct. The report has drawn attention to some corrections we have made. I think in considering the nature of this problem several points deserve to be mentioned.

First, I think we see in this contract a reflection of inadequate staff to deal with the large responsibilities placed on the Institute by the passage of the National Cancer Act. The budget in 1974 had increased by 150 percent and the staff had increased by about 25 percent and there were more contracts for bioassay work that the staff was attempting to manage than it could manage adequately, and it sought through this mechanism to improve the management of its work.

Clearly, the monitoring effort was not sufficient. Steps have been taken to correct that deficiency.

As to the program itself, the earlier efforts were carried out largely in the research mode with research on testing and the effort has been developed to translate this into a production operation, a service operation.

As to the initial award, the request for proposal was advertised, reviewed, and awarded as a 5-year contract with the understanding that the initial award would be for a trial period of 15 months to determine whether the contractor did, in fact, possess the capability to manage the program in a way which had been sought, so that the subsequent award was part of the original plan.

At the end of the 5-year period, it was determined that the system which had been started as an experiment merited a continuation. The second renewal, if you will, was for a phaseout and it is our hope that the phaseout can be accomplished promptly. This, again, will depend upon our ability to recruit staff sufficient for that purpose. The period provides for continuation up to 4 years because the contract now manages animal experiments that take 3 to 5 years for completion and if one were to phase it out in less than 4 years without staff capability for managing the effort, it would require animals to be sacrificed before tests had been completed.

It would be our hope that we would not need 4 years and for that reason we would not need the total sum allotted to it.

Senator MAGNUSON. Well, GAO says that the phaseout is going to cost $65 million.

Dr. UPTON. The phaseout, Mr. Chairman, involves experiments that are underway and the management of those experiments in some contracts would have to be transferred to NCI staff and the experiments themselves will run for 4 years.

Now in the event that NCI staff cannot take over this operation to continue the experiments in progress, we will have to have funds to support the phaseout over a period of 4 years. It's stepping down year by year. We will start no new tests under this arrangement, so that any new work begun would be started through NCI management. It would be our hope that we would not require 4 years of phaseout and we would not require the full amount budgeted.

Actually, the completion of the tests themselves will require in excess of $50 million. It's the management of this activity that is in the hands of Tracor.

Senator MAGNUSON. It seems to me you have locked yourself in.

Dr. UPTON. We would hope not, Mr. Chairman. We would hope that we can phase out, that we have the staff or will have the staff available to manage this in-house.

Senator MAGNUSON. Isn't it odd to you that a contract of this size wouldn't have been competed for by other companies?

Dr. UPTON. Mr. Chairman, this was the case when the contract was awarded initially. There were competitors in the initial award and the final award was a phaseout. We would hope to be able to phase it out sooner.

Senator MAGNUSON. This thing grew from $6 million to a total of $40 million and then it's going to take $65 million to phase it out. That's what GAO says. It seems to me you have got yourselves locked in.

Dr. UPTON. We have many tests underway, Mr. Chairman. That's correct.

Senator MAGNUSON. I understand that.

Dr. UPTON. We have been under very intense pressure to expand the effort so we have a large number of tests in progress. It's an expensive operation. The issue, I think, is the degree to which we have to rely on Tracor-Jitco to manage these many tests. We would hope we would not need to rely on them for a period of 4 years.

Senator MAGNUSON. The GAO reported that the company deliberately failed to report deficiencies in laboratory conditions which might have affected test results.

Dr. UPTON. That's correct, Mr. Chairman, and we have penalized them in award fee accordingly.

Senator MAGNUSON. You didn't penalize them very much when you expanded it to $65 million.

Dr. UPTON. That is money largely to support the subcontractors, Mr. Chairman. That is not money that would go into the pockets of the prime contractor and we would hope, as I indicated, that it will not require 4 years for the phaseout.

Senator MAGNUSON. Well, I hope not. This would bring the total contract price up to $108 million without competition.

Dr. UPTON. There was competition in the initial award, Mr. Chairman.

Senator MAGNUSON. Only for the first $6 million.

Dr. UPTON. The initial competition was announced——

Senator MAGNUSON. For the next $102 million there was no competition.

Dr. UPTON. The initial award, Mr. Chairman, was announced and bid as a competitive program for a 5-year period, but the actual award was for 15 months. That was understood by those who participated.

Senator MAGNUSON. Did somebody deliberately mislead GAO by telling them that the company's involvement with NCI's bioassay program would be ended shortly after May 1979, when, in fact, NCI was already negotiating a new 4-year renewal for more than $60 million?

Dr. UPTON. It is our hope, Mr. Chairman, that we can phase out swiftly. There are animal experiments in progress which will take that long to complete and to the extent that we cannot manage to phase out, there must be some arrangement to safeguard those experiments so the taxpayers' investment doesn't go down the drain.

Senator MAGNUSON. Given all the problems with this contract, why would you even consider extending it for another $65 million?

Dr. UPTON. If we had the capability in-house, Mr. Chairman, we would phase it out much sooner. We would have phased it out long since.

Senator MAGNUSON. Would you say you have a poor contracting manager now?

Dr. UPTON. We have had our problems, Mr. Chairman. I would not say it's poor management.

PRIME CONTRACTORS TO THE NATIONAL CANCER INSTITUTE

Senator MAGNUSON. First it was the Eppley contract and now Tracor. So you obviously have some very serious problems with your grants and contracts management, don't you? What is the total number and cost of prime contractors the Cancer Institute uses?

Dr. UPTON. The total number of prime contractors?

Senator MAGNUSON. Yes.

Dr. UPTON. I'm aware of three, Mr. Chairman.

Senator MAGNUSON. At a cost of $82 million?

Dr. UPTON. I would not be able to give you that figure without referring to the record. I could place that information in the record.

Senator MAGNUSON. Well, our information says three and it would cost $82 million, and this is the big one.

Dr. UPTON. That's correct, Mr. Chairman.

Senator MAGNUSON. You're the only program that uses prime contractors in all of HEW?

Dr. UPTON. I'm not aware of that.

Senator MAGNUSON. You're the only one, and the management fee—well, what's the total amount of the management fee, their guarantee and award fee, for these prime contracts?

Dr. UPTON. I believe that in the Tracor contract the base fee was $199,000.

Senator MAGNUSON. Well, it's $20.6 million for all three out of the $82 million. That's pretty high, isn't it, for management?

Dr. UPTON. The total award fee, Mr. Chairman, for Tracor has been, as indicated in the GAO report, $1.6 million. There are fixed contractor costs. Tracor-Jitco maintains, for example, a repository in which animal tissues and microscopic specimens are made available for analysis by regulatory agencies and by industry. They have a number of central costs.

Senator MAGNUSON. Well, to the prime contractor you have awarded $15 million, plus an award fee of $4.6 million, and plus a base fee—I don't know what a base fee is—of $1 million. That's $20.6 million paid to the management—not for the research, for the management. That seems pretty high.

Dr. UPTON. I believe, sir, that that sum includes fixed contractor costs.

Senator MAGNUSON. What determines the fixed contractor costs?

Dr. UPTON. They include such items as direct labor costs and travel. These are carefully audited.

Senator MAGNUSON. They come in and give you that themselves? They give you a report?

Dr. UPTON. These costs are very carefully audited, Mr. Chairman.

Senator MAGNUSON. And Battelle is one?

Dr. UPTON. That's correct. Battelle has only $14.1 million.

Senator MAGNUSON. Well, you'd better take a look at this.

Dr. UPTON. We are indeed, Mr. Chairman.

Senator MAGNUSON. Well, I think a lot of this you should be doing yourself.

Dr. UPTON. I wish we had the capability to do so, Mr. Chairman. Reference was made earlier today to personnel ceilings. To assume the responsibility requires personnel, competent personnel. We would like to phase out the Tracor-Jitco program as rapidly as possible, but this would depend on personnel, Mr. Chairman.

Senator MAGNUSON. Well, I'm not complaining about the subcontractors' work. I'm complaining about the management fees which is very high.

Well, this morning we have begun to take a serious look at the way HEW uses consultants. Certainly, what we have seen is not very good. And the consultant misuse and abuse we talked about today only skims the surface. There are many, many more examples we could have brought out.

This is just the beginning. This committee fully expects HEW to get control of consultant costs and uses. We will be giving the Department assistance and direction with this difficult problem. Consultant costs must be reduced. The reliance on consultants to do work that should be done in-house by regular HEW employees will be stopped. The use of consultants must be held to special situations and activities that cannot be carried out by regular Department employees.

The fiscal 1980 Labor-HEW appropriations bill and report will certainly discuss consultants and ways to bring costs under control. This is probably one area where the committee can save some money in 1980.

PREPARED STATEMENTS AND SUBMITTED QUESTIONS

There are some additional questions on this matter which will be submitted for the record. Please return the answers and transcript to the committee within 7 days. The record will remain open for 1 week to allow for statements from any interested parties.

[The statements and questions and answers, which were submitted to the Department subsequent to the hearing, follow:]

LETTER FROM ROBERT H. HAMLIN

8630 Fenton Street
Silver Spring, Maryland 20910

June 4, 1979

Honorable Warren G. Magnuson
Chairman
Labor-HEW Subcommittee
Senate Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Enclosed for your consideration is a statement submitting the views of eleven private organizations representing applied research companies, evaluation, survey and other applied research services under contract with the Department of Health, Education and Welfare (HEW).

We appreciate this opportunity to comment on proposed policies to monitor and guide HEW in the utilization of "consulting services" to achieve its program objectives.

Very truly yours,

Robert H. Hamlin

Robert H. Hamlin

June 4, 1979

Honorable Warren G. Magnuson
Chairman
Labor-HEW Subcommittee
Senate Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This letter is written on behalf of individual for-profit and nonprofit corporations which undertake contract work for the Department of Health, Education and Welfare (HEW). We appreciate this opportunity to present our views on the use of "consultants" by HEW.

These organizations and companies represent diverse professional and technical capabilities in the fields of health, education and welfare. These capabilities include research and development, survey research, program appraisal, management information, financial management information systems, other computer hardware and software applications, applied research, and training and technical assistance for clients in both the private and public sectors. Some part of the work of these organizations and companies is included within the definition of "consulting services" which is the focus of the Subcommittee's deliberations: 1) advice and assistance to HEW staff, 2) advice and assistance to HEW-funded organizations, 3) services in connection with surveys and 4) program evaluation studies.

We strongly endorse the increased use by the Subcommittee of its oversight powers in the appropriation process. We believe that joint action by the Subcommittee, HEW and leaders of the consulting industry will strengthen the programs of HEW and its service to the American public.

Of fundamental importance in achieving this goal is a clear and precise understanding of what is meant by "consultant". This classification has created confusion.

The traditional understanding of this term has been individuals or firms which supply personal services closely related to intrinsically government activities -- such as management functions. The organizations represented here do not consider themselves consultants within this traditional definition. Rather they are applied research organizations which provide defined services to the government (usually on a competitive basis). These services usually result in an analysis, evaluation, survey or the like. Not only is this distinction vital, but also the clear difference between the corporate applied research industry, both for-profit and nonprofit, organized to provide expert services as corporate entities under contract with HEW, as contrasted with individual expert consultants retained by HEW to provide advice, is crucial in formulating Federal policies and procedures.

Proposals and actions in the past relating to procurement of "consulting services" both from Congress and HEW often confuse these important distinctions. As recently as the May 22 hearing, distinctly different kinds of activities were lumped together as "consulting services" and the services rendered by applied research organizations were intermixed with advisory services performed by individual experts. By blurring these distinctions, the applied research industry serving HEW has been improperly characterized and tarnished by allegations against HEW's use of individual experts as consultants.

Efforts to limit funds available to HEW to acquire "consulting services" have failed to recognize these basic distinctions. We urge that any actions which the Subcommittee undertakes distinguish clearly between different kinds of services and services provided by corporations as opposed to individual expert consultants.

The expert capabilities of the corporate applied research industry represent substantial investments that these organizations have made in recruiting and training skilled professionals capable of providing a range of services in identifiable areas of expertise. The skilled and experienced teams of professionals which different organizations have assembled are a national resource of incalculable importance not only to HEW, but to other Federal, state, local and private organizations. Technical and intellectual creativity cannot be equated with assembly line output and requires carefully designed procurement policies to apply these resources to national needs. In the corporate applied research industry, both the corporation itself and its professional staff are jointly responsible for the quality and productivity of work done under contract for HEW.

With this general background regarding the nature and capabilities of the private corporate applied research industry, this statement analyzes legal and policy considerations which we believe should apply in reforming present practices. The basic conclusions we present for your consideration are 1) endorsement of the Subcommittee's review and oversight of HEW's methods of awarding contracts for consulting services, particularly the need to spread contract awards over the course of the fiscal year, 2) a recommendation that the Subcommittee broaden its review to monitor grant awards, a technique which avoids free and open competitive procurements which provide attendant protections, and 3) unequivocal opposition to the imposition of a ceiling - statutory or administrative - on contracting for needed consulting services as contrary to sound public policy. A more detailed comment follows.

1. Reform Of HEW's Present System Of Procuring "Consulting Services" Is Needed And We Support Specific Actions The Subcommittee Proposes To Achieve This Objective.

We welcome, as we have stated, the interest and commitment which the Subcommittee brings to the task of oversight and monitoring of HEW expenditures for consulting services to assure effective and efficient expenditure of public funds. We agree that improved HEW guidelines and procurement procedures will result in an enhanced cost-effective expenditure of public funds. We join you in deploring a year-end rush to award large numbers of contracts in the last quarter of the fiscal year. We strongly endorse a policy of competitive procurement and the distribution of procurements throughout the year. Ideally, 40 percent will be awarded in the first two quarters and 30 percent in each of the last two quarters, as proposed by HEW itself. We welcome further steps to restrict contract awards on other than a competitive basis.

2. Imposition Of A Ceiling On Competitive Procurement Of "Consulting Services" Is Contrary To Sound National Policy.

a. Well Established National Policies Direct The Federal Government To Rely On Private Sector Capabilities

Recognition of the need to develop rational and balanced policies for acquiring professional services needed by the government has resulted in issuance very recently by the Office of Management and Budget (OMB) of revised Circular A-76, which reaffirms the government's general policy of reliance on the private sector for goods and services, while providing a detailed process to achieve an equitable treatment of all parties and improved economy and efficiency in performing services needed by the government. OMB Circular A-76 provides that "The Government's business is not to be in business. Where private sources are available, they should be looked to first to provide the commercial or industrial goods and services needed by the Government to act on the public's behalf." (Emphasis added). While most of the survey, evaluation and other applied research performed for HEW by the corporate applied research industry is covered by A-76, some consulting services of a purely advisory nature relating to governmental functions of agency administration and management and program management are exempted from the scope of A-76. With respect to these types of services, A-76 provides that "Assistance in the management area may be provided . . . from private sources, as deemed appropriate by executive agencies, in accordance with Executive Branch guidance on the use of consulting services". OMB Bulletin No. 78-11 issued on May 5, 1978, establishes policy and guidelines to be followed by Executive Branch departments and agencies in controlling use of such advisory consulting services. HEW in its revised chapter 8-15 of the General Administration Manual provides additional policies governing the acquisition, control and reporting a broader category of management consulting, evaluation, survey, and technical assistance services.

A review of these policy directives establishes that over many years A-76 and related policies governing the use of consultants have recognized the need to utilize and rely on private consulting services. Imposition of a ceiling on expenditures for use of consultants imposed on HEW by the Subcommittee is simply inconsistent with sound implementation and administration of a Federal policy of reliance on private sector services, particularly when complex and honest differences of interpretation exist as to what can legitimately be characterized as a "consulting service" and when HEW programs are consistently undergoing dynamic change that requires the use of both government and private professional expertise.

b. The Grant Problem: An Unintended Consequence?

We urge a balanced and comprehensive approach to the task of reforming the present system, not "quick-fixes" and "simplistic" solutions. An arbitrary ceiling on HEW funds available for contract awards for consulting services ignores the potential for misuse of the grant process. The complex issue of when a transaction is a procurement, a grant or a cooperative agreement, was the subject of legislation enacted by Congress in 1977 (P.L. 95-224). OMB has initiated recently a wide-ranging study on equity, fairness and competition in awarding grants. Firms engaged in contract work for the Federal government are highly regulated under present laws and regulations, while the grant process is much less competitive and regulated. One unintended consequence of a ceiling on contract awards would be to encourage an unwarranted shift of such awards from contracts to grants, or alternatively encourage wider use of Federal Contract Research Centers (FCRCs) on a noncompetitive basis. We urge the Subcommittee to explore these potential adverse developments before reinstituting a ceiling on funds available for HEW's use of consultants.

c. More Work In-House: An Intended Consequence

An intended consequence of the Subcommittee's ceiling is presumably to force work within the scope of the Subcommittee's definition of consulting services to be performed by in-house government employees. In addition to the broad national policy considerations outlined above, we believe that there are very practical considerations relating to expertise, productivity, economy, efficiency, effectiveness and creativity, which dictate a different approach. In his statement on May 22, HEW Assistant Secretary Frederick M. Bohen advances several specific reasons why HEW should rely on qualified private sector organizations to provide consulting services. We agree with his analysis.

The organizations with the experience and expertise to perform the consulting work required by HEW represent capabilities created over a period of years. Investing in people is infinitely more complex and demanding than investing in equipment and facilities. The government in its procurement procedures has too often made it difficult to utilize these people assets properly. Payment delays and the significant costs associated with retentions of partial contract payments pending final audits make 90-day or more receivables increasingly common in the government marketplace - a significantly longer delay than encountered in the commercial marketplace. These delays in payments increase the costs to applied research firms of doing business and mean that private firms are, in part, financing government operations.

Reform of present procedures to assure orderly and efficient acquisition of private corporate services by HEW is an important goal for the Subcommittee to pursue. To further disrupt the orderly use of these organizations by arbitrary ceilings on expenditures by HEW will diminish, not strengthen this capability and create loss of jobs in many areas of the country where these resources have been nurtured -- Massachusetts, Maryland, Pennsylvania, North Carolina, Illinois, Texas and California, to name a few. The indirect impact on these areas and the nation are difficult to calculate. We are not, of course, talking only of the jobs of Ph.Ds and highly trained individuals with advanced degrees. A typical company might have one-quarter to one-third of its staff with advanced degrees and the remainder with B.A. degrees or less. The average industry salary is not significantly higher than that paid to school teachers and nurses, and is less than the average wage paid to people with comparable skills, education, and experience in the Federal government.

d. The Amount Of Contracting Out Has Increased In Exact Proportion To The Increase In Federal Investment In Social Science Research

Stability and balance are important factors in fashioning new policies. There are those who have indicated a belief that the amount of work in the social research area being done under contract has escalated dramatically in the past few years. Data obtained from the annual survey of Federal Funds for Research and Development conducted by the

National Science Foundation (NSF) indicate that the total expenditures of HEW for "applied social science research" has risen from $94 million in fiscal year 1975, to an estimated $193 million in fiscal year 1979. However, the proportions of this work performed intramurally and by outside organizations has remained relatively constant over that period. Using total applied research funded by HEW as a basis for estimation, we find that intramural expenses account for 20-22 percent of these funds, while "industrial firms" account for only 5 percent of the total. (Colleges and universities are the primary performers of applied research funded by HEW, accounting for over 50% of these expenditures each year). So, while the total amount of contracting has risen, the increase appears to be in exact proportion to an increase in Federal investment in social science research.

e. Outside Consulting Services Benefit The Government

The organizations we represent take justifiable pride in their professional accomplishments and are deeply concerned that the members of this Subcommittee "have yet to be convinced of the need for most of these consultant contracts'." (Emphasis added.) In an effort to begin a serious exchange of information and views of the applied research organizations rendering these services and your Subcommittee, we are providing a summary of a number of recent projects funded by HEW which we believe have made specific contributions to meeting national goals - including assisting Congress in its oversight role and drafting sound legislation mandating new program approaches and initiatives. We believe that these projects are representative of most contract work performed on behalf of HEW, and the list can be expanded as time permits. The following are illustrations of this important point.

WESTAT and its subcontractor, Macro Systems, are presently completing a quality control study of the error rates and types and causes of errors in applications made by students and parents for educational grants under the Basic Education Opportunity Grant Program (BEOG) of HEW's Office of Education, presently a $2.2 billion annual program originally established by the Education Amendments of 1972 (20 U.S.C. 1070). Both Congress and OMB have been concerned that a significant number and amount of grants have been made to ineligible students (those above maximum income levels) because of misinformation or incorrect information supplied in applications. This is of particular concern to Congress since the BEOG program authorization expires this year and corrections to reduce error rates may be required by both legislation and administrative practices. Under extreme pressures of time and effort over a few months, WESTAT and Macro collected extensive information from 210 colleges and universities and approximately 2,000 students and their parents to determine error rates by comparison of data from these different sources. This study will be completed by July 1979, so that Congress will have carefully analyzed information for use in determining the future of the BEOG program and the Office of Education will be able to modify regulations and administrative procedures if the BEOG program is reauthorized.

Also, both Congress and OMB have been deeply concerned over the cost-effectiveness of the Professional Standards Review Program (PSRO) of HEW, a program designed to contain costs and to control use of billions of dollars of medical services provided in health care institutions financed in significant part by the Medicaid and Medicare programs. In 1977 and 1978, the Office of Planning, Evaluation and Legislation (OPEL) of HEW's Health Services Administration, an HEW unit independent of the unit responsible for the PSRO program, evaluated the PSRO program with the assistance of three private consulting firms: Macro Systems, Arthur Young, and SystemMetrics. The conclusion: No impact of the PSRO program on costs and utilization could be ascertained at that time with the information then available. In 1978 and 1979, a second, later evaluation of the PSRO program modeled on the first evaluation was performed by in-house staff of the Health Care Financing Administration, HEW's branch responsible for the PSRO program. The conclusion: The PSRO program was saving approximately the same amount it cost (approximately $150 million), a questionable cost-effectiveness ratio. Although the HCFA staff conducting the latter evaluation is quite competent, we believe that the interests of Congress and OMB, as well as the American taxpayer, are better served by independent evaluations, using HEW staff and private consulting firms not associated with the government unit responsible for operation of the PSRO program. Too much doubt is cast upon the conclusions of a government unit that evaluates its own operations.

In 1975, the National Institute of Education (NIE) contracted with Research Triangle Institute of North Carolina to conduct a survey on school violence. That report, released in 1977, has been widely quoted and the data collected has been extensively used by Congress and the Executive Branch agencies. As recently as May 21, 1979, the New York Times cited the study's findings in an article on vandalism in New York City.

In April, HEW released the results of a multi-year evaluation of day care programs funded under Title XX of the Social Security Act. This study, performed by Abt Associates of Cambridge, Massachusetts, found that the current regulations were too stringent and that tens of thousands of additional children could be served with the same appropriation level through a slight revision in the regulations for four and five year olds. As a direct result of the study, HEW plans to alter the regulations to increase service at no additional cost to the taxpayer. The first year savings alone will pay for the study severalfold.

In 1977, the United States Office of Education (USOE) released the results of a study of the bilingual education program funded under Title VII of the Elementary and Secondary Education Act. Conducted by the American Institutes of Research, Palo Alto, California, the study revealed that a majority of those receiving services were English-language dominant. As Commissioner of Education Boyer noted in his testimony at the Subcommittee hearings on May 22, as a direct result of this data, HEW recommended extensive revisions that were incorporated into the Education Amendments of 1978, P.L. 95-561, resulting in a greater emphasis on serving those students with the greatest need for Title VII support. In addition, the Office of Education made major administrative reforms in program operations.

As a way to test our firm belief that work performed under contract to provide corporate applied research organizations is a benefit to the Federal government, we invite the Subcommittee to undertake a study comparing the quality and costs of doing such work internally within government with work done under competitive contract by private organizations. We would be pleased to cooperate fully with the Subcommittee in a rigorous evaluation of the cost-effectiveness of reliance on private organizations for needed "consulting services".

f. Additional Reasons Why HEW Should And Must Rely On Outside "Consulting Services"

Despite a Federal policy of reliance on the private sector to provide services, the unique expertise represented by private sector organizations in assisting the government and the special contributions private organizations have made to HEW and others, we are asked "Why doesn't the

Federal government do the work itself?" There are reasons, in addition to those we have already expressed, which are clear and precise.

1) Congressionally Mandated

First, in a great many cases, the Congress demands that the work be performed outside the Federal government. For example, in P.L. 93-380, the Congress ordered HEW to do a thorough analysis of Title I of the Elementary and Secondary Education Act (Sections 151 and 821). In P.L. 95-561, the Congress ordered HEW to carry out no less than 12 separate studies. In each case, the legislation or legislative history directed that this work either be performed by contract and/or grant and that it be conducted "independently".

The demands for that work to be done outside of the Federal bureaucracy are easy to understand. The Congress wants to see good data and information generated by people with no vested interest in the outcome.

Since about 1970, the Congress has each year placed more and more emphasis upon oversight. Committees have given oversight a deservedly higher priority. Congress is increasingly demanding data and information on programs as a prerequisite to making legislative decisions on program authorizations or reauthorizations. That thrust has resulted in demands for data and assessments of program effectiveness so that Executive Branch recommendations for changes and Congressional action on program direction can be based on sound, balanced information. Specific Congressionally mandated studies, such as those cited above, are often the basis for acquiring this information. For Congress to place demands, directly or indirectly, upon Executive agencies to come up with specific data and evaluation information for the next reauthorization cycle on the one hand and then to take away the resources to enable this work to be performed creates obvious contradictions. The real loser in the long run will be Congress and its efforts to act on the behalf of the American people.

2) Cost Efficient Way To Meet Needs

Not only would the performance of evaluation studies and social science research solely within the Executive Branch be in opposition to the notion of independence, it would also be quite costly. Much of the work that an agency needs is of a one-time nature that requires experts in specialized fields to be employed for limited periods of time. For example, a study of the changes in a rural community brought about by comprehensive changes in the school system might require an anthropologist. Or, a study of the effects of the delivery of emergency medical services might require the use of trained interviewers in each of several hundred communities for six weeks. It would be virtually impossible for an agency to mobilize the proper numbers and types of people needed at the right time. In addition, it would be costly and time consuming, often resulting in project delays.

The real question comes after a study is completed -- what happens to the people hired for the staff? Either they would be terminated, a process which in the government is difficult at best, or they would be retained, adding more personnel to the public payroll, who would not be capable of productive use. A private firm doing that same work would simply transfer many of these staff from a project being done under one contract to another contractual commitment, a step more easily accomplished in a private firm than in government. Reduction in a private company's work force is handled more expeditiously if business conditions warrant than is the case in the public sector.

It should also be noted that since a majority of private organizations engaged in doing contract work are for-profit firms, the Federal government collects about 46 percent of every dollar of pre-tax earnings back through the Federal income tax.

g. The Procurement Of Services Presently Characterized As "Consulting" Is A Highly Competitive Process And Provision Of These Services Is Not Dominated By A Few Organizations

A comment frequently made is that a few private organizations dominate the performance of contract work. No single or few firms dominate the market in providing "consulting services" to HEW. A fair appraisal of market share generally demonstrates the highly competitive nature of work in the field of applied social science research. An internal market study recently performed by one private firm indicates that the largest market share of the Federal applied social science research market that could be attributed to a single organization was 2 1/2 percent and that the top 20 organizations accounted for less than 25 percent of the total market.

Most contract work with Executive Branch agencies is awarded as the result of competitive procurement, a practice we strongly support. It is logical that a group of firms with acknowledged expertise and experience in a specific field will win a reasonable share of these competitive procurements. To require that the government select contractors on the basis of the greatest capability and expertise to perform the work on terms most favorable to the Federal government and then to criticize HEW and the firms who survive this rigorous competitive procurement process is unfair.

Whatever specific abuses the Subcommittee uncovers, it should reaffirm that contracts give the Federal government the greatest degree of protection. Under a contract, the provision of services is carefully spelled out and payments are made on a scheduled basis. Non-performance can, and sometimes does, result in contract termination. Under other alternatives that might be considered -- for example, the use of government employees or grants -- the ability of the Federal government to control the work and its costs is, we are convinced, much less.

h. Some Concluding Observations

For all these reasons, the imposition of a specific ceiling on contracting for needed services covered under the broad definition of "consulting services" is contrary to sound Federal policies. It does not help government managers to make balanced judgments relating to quality of performance, cost-effectiveness and efficiency between the use of in-house or private services in achieving program goals. We believe that the nation's best interests are served by encouraging HEW to seek independent evaluations of its programs so that Congress may have the benefit of the best available, impartial information in exercising its oversight functions. We strongly believe that private corporate services make a major contribution in providing impartial, balanced, and carefully developed information to assist in the development of executive and legislative policies.

This private capability should be maintained and enhanced through Subcommittee action to develop more stable and streamlined procurement policies. Competitive procurements of private services are highly regulated and accountable to Congress and HEW, and improvements in how HEW manages and utilizes these professional services should be aggressively pursued by the Subcommittee.

We appreciate the opportunity to make these comments. We offer our fullest cooperation to the Subcommittee in working to improve the use and effectiveness of private services by HEW.

Very truly yours,

Robert H Hamlin

Robert H. Hamlin
Chairman
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QUESTIONS SUBMITTED BY SENATOR MAGNUSON

Question: If the average consultant's contract runs for about two years, why not save time and hire them as temporary employees?

Answer: We have no data available on how long the average consultant's contract runs, but we believe the average is closer to one year.

The Department does hire consultants as temporary employees when the nature of the work is best handled by bringing aboard a person or several persons through the appointive consultant process. Appointive consultants are temporary employees hired for special duties for a specific length of time through the personnel process.

There are, however, many instances in which the work to be done is large in scope and required specialized knowled-e and/or equipment such as laboratory or computer facilities. In these cases, it is more economical and efficient to contract with a firm or organization that already has the facilities an/or expertise needed. The alternative would be to set up a new office in the Department, recruit, select, and hire each of the employees; and arrange for space, furniture, supplies, and support services. Once the project was completed, the Department would have to discharge the employees or attempt to place them in other offices. Establishing a new government office takes time and a consulting firm is usually ready to begin work immediately or can become ready more quickly than an agency because of its specialized knowledge in the field of service. The department would also have difficulty attracting top people from permanent positions into temporary jobs with the department. In addition, temporary government offices tend to become permanent.

In orther cases, certain evaluation studies need the objectivity of an outside firm. The department is under legal mandate to have some studies done externally.

Finally, many apparently lengthy projects require less than full-time work over a long period. For example, a study may require periodic data gathering over some time with a final report due two or three years after the start. It would be impractical to hire full-time employees to work on a project that requires part-time work.

Question: Please submit a list of former employees of HEW who are officers of the consulting companies with which HEW has current contracts.

Answer: The Department does not maintain this type of data. While we might be able to obtain most of it from the individual agencies by extensive file reviews as well as interviews with cognizant HEW contract and project officials, the process would probably take several weeks of intensive effort. In the event the committee feels that this data would be of significant value to its investigations after such a passage of time, we will immediately instruct our components to begin collecting the data.

Question: The information provided to OMB for consulting service arrangements of June, 1977 was 6,068 arrangements, representing expenses of $38,659,400. As of June, 1978, the number of consulting service arrangements were 6,058 or less, with an accompanying expense of $100,824,000. When asked for clarifying information, HEW responded that the June, 1977 dollar figure only represented a six months expense. Even so, how do you explain the 30 percent increase in expenses?

Answer: The information provided to OMB for arrangements of June, 1977 were 1,768 representing expenses of $9,699,000 rather than the amounts as stated in the question.

Differences between the two years cannot be explained because the fiscal year 1977 and 1978 data submitted to OMB were based on different definitions of consultant services and different criteria for the report. OMB did not define consultant services for the 1977 report so HEW responded using the definition which is used for the reports to the Congress. OMB did provide a definition for the 1978 report but the two are significantly different. Thus, the reports are not comparable. There is a second major difference between the two reports. For the 1977 report, HEW reported the contracts awarded during the first six months of fiscal year 1977. For the 1978 report, HEW provided data for consultant arrangements in effect at June 1, 1978, i.e., without regard.

Question: According to HEW data, of the $111.7 million spent on the four income guarantee experiments through FY 1980, only $30.6 million represented payments to families. The remaining $81.1 million -- 73 percent of the total -- went to contractors and subcontractors. Is this a reasonable distribution? What part of the $81.1 was spent on "normal" administrative expenses? What part was due to the experimental nature of the program? Should the raio of benefit payments to contractor fees be improved? How?

Answer: There are three principal categories of expenditures in the income maintenance experiments: payments to families, data gathering and analysis, and administration. The distribution of funds between payments to families and costs incurred by contractors and subcontractors is determined, overall, by the fact that the primary purpose of the projects is to generate data fo analysis, research and forecasting purposes. That is, for a given experimental design and total cost of payments to families, contract costs would vary directly with the extent and sophistication of both the research data generated by the contractor and the uses to which such data are put. Also, the costs of payments to families, and, therefore, the ratio of such costs to total costs, depend upon the particular configuration of experimental plans tested. Therefore, if the percentages of families offered the low, medium, and high generosity guaranteed annual income in the Seattle-Denver experiment (SIME/DIME) were altered, the total costs of payments to families would change although no other costs of the project would be expected to change.

Also, a sizeable proportion of the families enrolled in the experiments were in the control group and therefore received only a small interview fee. The controls were included in order to observe the behavior of a comparable group of families whose opportunities were defined by the existing tax and transfer programs. The interview fee they received was given in compensation for the time they devoted to being interviewed. Similarly, a substantial fraction of the experimental group received only a minimum ($20/month) payment, because their income was too high to qualify for cash assistance. This minimum payment was in return for remaining active in the experiment. In this type of research program, it is important to maintain contact with all families on a continuing basis, in order to measure the effects of the experimental program without bias.

It is difficult to determine how much of the nontransfer costs of the experiments can be allocated to "normal" administrative costs. In SIME-DIME approximately $76 million will be spent by FY 1980; of this, 27 percent is for payments to families, 4 percent is for the manpower training and job counseling program, 41 percent is for data collection, preparation, and processing, 19 percent is design, analysis and research, and 9 percent is management and administration. The costs are largely accounted for by the research goals of the projects. A large volume of complex data has been collected in SIME-DIME, and a large investment has been made in quality control, editing and checking, and preparation of data tapes for public release. These data will be useful for many years to come, for a wide variety of applications. For example, they have already been used to tabulate detailed work-related expenses for the use of the House Ways and Means Committee. To further illustrate the difficulty of determining "normal" administrative costs, consider the estimated 1980 costs of running the payments office, for the approximately 230 families which are still active in the experiment. In this year, payments to families are estimated to be $620,000, with an administrative cost of about $131,000. However, about half of the participating families receive only the $20/month minimum payment. These families receive only about 5 percent of the annual payments to families, but undoubtedly account for a much larger fraction of the administrative costs, perhaps half. In an actual program such families would not participate, and the ratio of administrative costs to payments to families would be considerably lower.

Question: A single firm, Mathematica, was chosen as prime contractor or a subcontractor for thee of the four income guarantee experiments. Mathematica received a total of $32.4 million from the experiments, $1.8 million more than the needy families received and 29 percent of the total funds. Does this concentration jeopardize quality of the experiments? How does HEW guard against the possibility of bias or poor judgment in such a monopolistic situation?

Answer: Mathematica is one of eight major contractors who have played important roles in this series of experiements, and has never had exclusive responsibility for the conduct of one of the experiments. Mathematica was a subcontractor in the New Jersey-Pennsylvania experiment, in which it had primary responsibility for the field operations, that is, the interviewing and payments operations. Mathematica was competitively selected in separate procurements by the States of Washington and Colorado to perform this role in the later Seattle-Denver experiment. While the field costs of these projects is indeed large, a substantial percentage of such costs go not to permanent staff but to temporary operations such as site offices and temporary personnel such as interviewers and payment clerks. In these two experiments, Mathematica also played a role in research and analytic efforts. In a third experiment, in Gary, Indiana, Mathematica was competitively selected to do research on previously-collected data, and prepare public-use tapes of these data. The entire design, operation and administration of the Gary experiment was conducted without Mathematica's involvement, and concluded prior to the award of the research contract. We feel that Mathematica has made valuable contributions to this series of experiments, due to their experience and expertise in policy studies, field operations and economic analysis. As indicated, they are only one of eight major contractors who have been involved in the experiments and therefore do not maintain a monopolistic position. Active technical monitoring by HEW, and the substantive involvement of prime and subcontractor personnel in decisionmaking, are used to maintain the quality of judgment brought to bear upon these projects.

Question. Out of the $111 million that's been spent on the income maintenance experiments, how much went to payments for poor families and how much went to consultants and contract expenses of the $111 million?

Answer. The breakdown of the costs of the income maintenance experiments into payments to families and other expenses is shown in the following table.

Cost of Income Maintenance Experiments

	New Jersey-Penn. and Rural (OEO)	Gary	Seattle-Denver*	Total
Payments to Families	$4,774,351	$5,458,835	$20,570,000	$30,803,186
Other Contract Costs	9,142,195	14,861,665	55,502,000	79,505,860
Total Costs	13,916,546	20,320,500	76,072,000	110,309,046

*Estimated totals through 9/30/80

Overall, about 28 percent of the total costs of these experiments consisted of direct cash payments to participating families. This division reflects the fact that the primary purpose of these experiments was to generate research data rather than to simply provide services. A more detailed cost breakdown of the $76 million spent on the Seattle-Denver experiment illustrates this fact:

- 27 percent - bash payments to families.
- 4 percent - manpower counseling and training program offered to selected participants.
- 41 percent - data collection, management and processing, including both computer costs and the salaries of data-gathering personnel such as interviewers and payment clerks
- 9 percent - program management, operations and administration, including managerial tasks performed by Public Welfare agencies of Washington and Colorado.
- 19 percent - design, analysis, and research.

Question. How much has HEW paid for the operation of the TRIM computer model?

Answer. The Transfer Income Model (TRIM) is a computer model which employs large data bases of information on the income and demographic characteristics of U.S. households to simulate the impact of various changes in income transfer policy. It has been used by many government agencies to estimate the impact of welfare reform proposals, changes in the Food Stamp program, distributional effects of energy policies, and modifications to the Internal Revenue Code. The model's development has been financed largely through Federal funds and is in the public domain, available through various agencies free of charge to potential users.

There are two major contractors who developed the TRIM model: the Urban Institute and Mathematica Policy Research, Inc. The initial developmental work, which began in 1968, was performed by the Urban Institute and nearly all of the Institute's work was funded by the Office of the Assistant Secretary for Planning and Evaluation (ASPE) in HEW. In 1974, Mathematica Policy Research obtained the TRIM model and began further developmental work. Mathematica renamed the model MATH and continued development of the model. Primary funding came not from ASPE but from the Departments of Agriculture, Labor, Treasury, and Energy (at first, throught the Federal Energy Administration), from the Congressional Budget Office, and from House Information Systems, which is the computer support center for the U.S. House of Representatives. Some funding also came from the Social and Rehabilitation Service of HEW, which has since been incorporated into the Social Security Administration.

The Urban Institute has been and continues to be the main supplier of TRIM-related material and support to ASPE. However, because of its superiority in several areas of microsimulation development, Mathematica also receives some funds from ASPE to further develop and modify certain parts of the MATH model for ASPE use.

In addition to the TRIM and MATH models, ASPE has developed and maintained in-house an HEW Microsimulation model. This model is used to estimate the cost, caseload, and distributional impact of the Administration's welfare reform proposals. It is a synthesis of some of the more efficient portions of TRIM and MATH but also represents some significant developments in microsimulation that were specifically required for the Program for Better Jobs and Income estimates and for estimates of the recently introduced Social Welfare Reform Amendments of 1979 and Work and Training Opprotunities Act of 1979.

During the period from FY 1975 through FY 1978, ASPE provided approximately $700,000 in non-computer funds and $400,000 in computer time to the Urban Institute to develop and maintain the TRIM model. Additionally, $50,000 was provided to Mathematica to maintain the MATH model and provide us with technical assistance in using new developments. Thus, a total of approximately $1.2 million has been provided to these two contractors for TRIM/MATH maintenance and operation over a four-year period.

These funds paid not for previously-developed versions of the model but for further development and refinements to the existing models required for specific policy applications and for updating the data bases on which the model operates as new surveys became available from the Bureau of Census and other Federal agencies. Additionally, the funds were used to improve the cost efficiency of operating the model on large computers. The cost of a typical TRIM run has been reduced by more than two-thirds in the past three years as a result of the work of the Urban Institute.

In contract to the $1.2 million provided to these private contractors, ASPE spent nearly $1 million in FY 1978 on in-house computer costs alone to provide detailed cost and caseload estimates on welfare reform to Congressional and Executive Branch policy makers. An additional $250,000 is expected to be spent for this purpose in FY 1979. The bulk of our expenditures, therefore, has been and continue to be in-house.

Finally, it should be emphasized that neither the Urban Institute nor Mathematica charge ASPE for developmental work which HEW or other Federal agencies have previously paid for. Any work completed by them is in the public domain and is made available by them to potential users. Users are charged only for the cost of computer tapes and any technical assistance required to implement the developments being purchased on the user's computer. ASPE has followed this procedure on numerous occasions, using the funds mentioned above for such purchases.

Question. Is the government paying the going commercial rate for the use of this data or is it being billed in a differential way from other people who get the same data?

Answer. The government pays nothing for the use of these models; the models are now fully operational in-house on Departmental computer facilities. We do, however, have contracts with the Urban Institute and Mathematica to maintain the model; i.e., to perform modifications and improvements to the basic model required for specific policy applications; and to update the data bases on which the model operates as new Cenusu survy data and program record studies become available. For these services, which are primarily labor costs, the Federal government is charged standard rates by the Urban Institute and Mathematica. Both organizations are audited annually by the government to determine the appropriateness of overhead charges, indirect expenses, general and administrative costs, and fee schedules. Each organization adjusts such charges on the basis of the Federal audit and uses Federally - approved charges for all customers.

Question: An article published this past winter in a magazine called Policy Review lists a number of professionals that have been involved in studying poverty programs who bounce back and forth between the Federal Government and private consultant firms.

The recent restrictions on Federal employees against going back to private firms associated with the person's government work are designed to prevent this "revolving door" arrangement.

Secretary Califano, however, has proposed modifying this restriction to exclude technical experts and other specialists.

If this restriction is modified, will policy research planners be excluded from taking advantage of their government experience?

Answer: The Ethics in Government Act of 1978 amended the post-employment prohibitions applicable to all Federal employees including experts and consultants. These new criminal sanctions principally apply to supergrade positions including significant decision-making authority on policy matters and supervisory responsibility extending to a major organizational unit. The key features of the Act include a two-year bar against aiding and assisting in the representation of a party other than the Government and a one-year bar (a "cooling-off period") against most contracts with the former employee's agency. Although the one-year probation is not applicable to special government employees (those who work 130 days or less in a 365 period) an expert or consultant, otherwise within the class of senior employees designated by the Office of Government Ethics, would be subject to these prohibitions as well as those applicable to all employees regardless of grade.

The proposed technical amendments to the Act (S. 869), which are supported by Secretary Califano, would clarify and modify the scope of the new post-employment prohibitions of particular interest to HEW in the Kindness Amendment:

> "The prohibition contained in subsection (c) /the one-year cooling off period/ shall not apply with respect to the representation by any person who is an elected official of full-time employee of a State or local government, or any agency or instrumentality thereof, or of any institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or any medical research or treatment facility exempted under section 501(c)(3) of the Internal Revenue Code of 1954."

This modification of the law, if enacted, would not have a substantial impact on experts and consultants who return to private firms unless they qualify for the exclusions set forth in the amendment. On the other hand, an expert, such as a biomedical researcher at NIH taking a position with a medical school, would not be barred by 18 U.S.C. 207(c) from having contracts with that agency during the year following the termination of his Federal employment.

The term "policy research planner" is vague. If this position is within the group of experts and consultants who commonly leave Government to take jobs with private firms, it is fair to say that some of these people may encounter difficulty in "taking advantage of their Government experience" because of the Ethics in Government Act. No one is, however, prevented from accepting a particular non-Federal position. 18 U.S.C. 207 is merely a bar to certain activities one may engage in any such position.

Question: What specific steps do you plan to take to insure that these consultant abuses do not continue in FY 1980 and beyond?

Answer: As Assistant Secretary Bohen stated in his written testimony before the committee, the Department will take these actions to tighten its management over consultant services:

- o set an internal ceiling of $194 million for FY 80, and not exceed it without the committee's prior approval.
- o hold increases in ceilings for FY 81 and beyond, to no greater than the rate of increase in inflation, and not exceed these levels without the committee's prior approval.
- o account strictly and formally for all funds spent by contract for consultant services.
- o continue centralized review of descriptions of all proposed consultant projects and intensive detailed centralized reviews of all evaluation projects.
- o add special Office of the Secretary audits to assess the usefulness of a sample of completed consultant projects.
- o continue to control the level of expenditures arising from the use of the subcategory of appointive consultants.

- make the necessary systems changes to guarantee that we report to you all appointive consultants who are paid $25,000 or more during a fiscal year.

- continue to require the head of each agency or his/her deputy to certify personally the request for contract for all consultant services projects valued at $25,000 or more.

- enforce rigorously the procedures and regulations applying to the proper use of appointive conslutants.

Additionally, the department will vigorously pursue the Secretary's goal of reducing fourth-quarter obligations for all contracts, including consultant services contracts to 30% of the FY 1979 annual total.At the end of FY 1979, we will evaluate whether further reductions and other actions are necessary to assure effective planning for contracted projects and appropriate quarterly expenditure levels in future years.

Finally, Mr. Bohen pledged to the committee, that he has accepted personal responsibility to ensure that HEW takes actions needed all through the department to hold in check expenditures for consultants and increase the utility of individual projects in the future.

Question: In view of the previous discussion regarding problems with consultant contractors, we would expect some involvement from the Office of the Inspector General. Mr. Morris, how many consultant contracts has your office reviewed over the past five years?

Answer: I am not able to provide a specific number since our information system does not identify audits or investigations by contract purpose, but rather by contractor. However, I believe that a substantial number of the large dollar contracts have been audited in that Department regulations require field audits of all cost reimbursable contracts in excess of $100,000.

Each year, approximately 20 percent of Audit's staff resources are utilized for audits of HEW funds at institutions of higher learning. This includes all cost reimbursable contracts over $100,000 and, undoubtably, many consultant contracts. In the past twelve months, for example, audits of 500 cost reimbursable contracts totalling $184.1 million were completed by HEW Audit at institutions of higher learning.

Also, within the past year, we have worked with the Office of Education, the National Cancer Institute and the National Institute for Drug Abuse to devise procedures which would prevent abuses of contracts from occurring. We have been troubled by the large numbers of problems involving the awarding and monitoring of contracts and grants--not just consultant contracts. As a result, we are actively working with the Assistant Secretary for Management and Budget to spot HEW programs with problems and to work together to improve the management of contracts and grants.

The Office of the Inspector General has a major interest in the Department's use of contracts, including consultant contracts. For more detail, I would respectfully refer you to chapter VIII of our Annual Report for 1978; a copy is submitted for the record:

Chapter VIII

OIG Activities Related to Contracts and Discretionary Grants

In 1978, we conducted or participated in seven special investigations or reviews of procurement and grant systems five of which were initiated in 1977. Four of these special investigations of reviews are described below to illustrate the kinds of problems found. In addition, we discuss other specialized problem areas and provide our assessment, plans and recommendations.

A. Special Investigations and Reviews

1. Contracting Practices of the National Cancer Institute (NCI)

At the request of the Secretary and the Director, we reviewed NIC's contracting function to assess the adequacy of operations and business practices. The review was intended to highlight procedural weaknesses in need of prompt attention.

We found that sharp increases in financial resources available to NCI over the years generated heavy pressure to convert dollars into research quickly, but the system was not able to cope fully with the strain.

We recommended the following:

- Centralization of administration of contracting operations and separation of them from program influences.
- Centralization of administration of peer review and separation of it from program influence.
- Centralization of administration of peer review and separation of it from program influence.
- That NCI take steps to ensure that:
  - --Project Officers prepare better defined work scopes and assist the contracting officers by providing necessary technical input and surveillance.
  - --Contract Officers award contracts with more precise performance requirements under financial arrangements favorable to the Department and use the competitive process to the fullest extent. Close surveillance procedures should be adopted to ensure financial and technical progress and compliance with contract terms; unsatisfactory performance should be corrected or contracts terminated.
  - --Peer review group members are encouraged to prepare recommendations consistent with their observations. Better use should be made by contract and project officers of peer observations and recommendations.

- The Office of the Assistant Secretary for Management and Budget, the Public Health Service (PHS) and the National Institutes of Health (NIH) should assist NCI.
- Closer surveillance of staff relationships should be provided to minimize the possibility of conflicts of interest.

Before we made our formal report NCI began to take actions commensurate with some of the recommendations. On May 12, 1978, PHS submitted to the Assistant Secretary its correction plan addressing all but one (inadequate Departmental stewardship) of the 15 areas in which the deficiencies fell. PHS stated that the remaining one would be discussed in a coming plan dealing with other NIH contracting activities. On October 20, 1978, PHS made a report indicating very substantial progress in executing the plan with almost all of the actions either completed or on schedule.

2. Relationships of the National Cancer Institute with the Eppley Institute for Research in Cancer.

In February 1978 GAO issued a report on a contract with the University of Nebraska's Eppley Institute for Research in Cancer. The contract, for carcinogen testing and carcinogenesis research, had been originally negotiated, and subsequently renewed, noncompetitively.

GAO criticized NCI actions resulting in a 1973 renewal, the administration of the contract and the limited degree of utilization of contract research reports. GAO also said that Eppley had used contract funds for projects lacking initial formal NCI approval, charged some noncontract expenses to the contract and used some contract equipment for noncontract work.

Further, GAO said, Federal regulations for certifying personnel services charged to the contract were not being followed, controls for recording employees' leave were inadequate and Eppley had received approval to refurbish its breeding facility which was breeding many more animals than it needed for research purposes.

GAO noted actions taken by NCI and Eppley to correct a number of the criticized situations.

We performed an audit covering the period from May 16, 1973, through August 31, 1977. Our review generally confirmed the conditions cited in GAO's draft report and we recommended that Eppley refund about $1.1 million. Because of inadequacies in labor distribution records, we were unable to express an opinion on the validity of $7.1 million of costs. Under HEW procedures, NCI must determine how much of the $7.1 million is a proper charge to the contract.

At the request of the Secretary, the OIG reviewed the activities of the Director of the Eppley Institute and members of his staff while they served on various HEW advisory organizations. Based on our review of this case, we condluded that the variety of roles assumed by an HEW consultant (i.e., principal investigator on HEW contracts or grants, consultant to provide industry, and consultant to HEW) could result in, at a minimum, the appearance of impropriety. We recommended that careful study be made of acceptable standards of conduct for NIH consultants and that financial interest disclosure forms filed by NIH consultants be given wider dissemination to assist NIH officials in determining whether there are any conflicts which might affect the scientific judgment of the consultants.

Acting on our report, the Secretary directed that (a) a review be made to determine if additions or amendments to HEW conflict of interest regulations are necessary, (b) the practicality of prohibiting HEW consultants from representing third parties before HEW be assessed, (c) consideration be given to prohibiting any HEW conslutant from accepting employment by any for-profit entity, the activities of which involve matters under jurisdiction of the committee on which the HEW consultant serves, (d) immediate action be taken to ensure that the financial disclosure forms are distributed to those agency officials whose duties require them to deal with the consultants, and (3) that a directive be issued immediately to all committee members reiterating the importance of filing complete and accurate disclosure forms and stressing that amended forms must be filed as a member accepts new employment or obtains a new financial interest.

Certain information obtained during the HEW audit has been turned over to the Office of Investigations for further review.

3. Contracting Practices and Official Conduct in the National Institute on Drug Abuse (NIDA)

We made a review of allegations of improper conduct by the staff, management, grantees and contractors of NIDA. We found loose management practices and evidence of cronyism. We recommended to the Secretary on May 26, 1978, that (a) NIDA contract proposal technical review committees be selected from outside the contracting NIDA division and, where possible, outside the Government, (b) where few responses to requests for contract proposals are received, potential contractors' reasons for not proposing be ascertained and the request reissued if circumstances warrant, (c) an official outside the contracting NIDA division monitor the award process, (d) an independent group periodically reassess the continued need for long term contracted projects, and (E) Departmental standards governing travel by key officials be reviewed to make certain that they are sufficiently vigorous to preclude excesses. We also recommended immediate reassessment of a pending project on which the current contractor was personally related to NIDA staff.

The Secretary on June 2, 1978, approved these recommendations and directed that the following actions be taken immediately:

- The Assistant Secretary for Management and Budget assure that the contract and grant pracitces of NIDA are impeccable, free from favoritism or cronyism, and that competition is obtained whenever feasible.

- The Assistant Secretary for Personnel Administration review the personnel matters cited and advise the Secretary whether any steps should be taken.

- An examination be made of standards governing travel by top officials with the objective of assuring that those standards are sufficiently vigorous to preclude excesses.

- General Counsel take the findings of our report into account in his review of conflicts-of-interests policies in respect to HEW contract and grant programs.

The above matters were the subject of a hearing on July 31, 1978, before the House Committee on Interstate and Foreign Commerce Subcommittee on Oversight and Investigations. Certain additional matters are still undergoing review as discussed with that Committee.

The Assistant Secretary for Health, in reporting on the actions taken in response to our recommendations, has described a new contract management system, which, in our judgment, is both unique and praiseworthy for readers of this report. The system is as follows:

"e. Contract Management System

> "During the past several months, the Inspector General has detected a number of instances in the award and administration of departmental contracts which leave the appearance of favoritism and cronyism. These involved instances in which the spouses of departmental officials received remuneration under HEW contracts, as well as instances in which key contractor staff had close personal relationships with departmental awarding officials. Our assessment of these circumstances revealed that we do not have adequate management controls since neither contractors nor HEW staff are required to reveal 'special relationships' of this type.
>
> "As a consequence, we are implementing in ADAMHA a management system whereby contractors will be required to certify in their proposals whether or not they have knowledge of circumstances which give the appearance of conflict of interest. Likewise, ADAMHA staff will be required to disclose any such relationship for each procurement in which they are involved.
>
> "This management system will provide information at a point in time in which the Department can take action to assure the integrity of the contracting process.
>
> This new process, which to our knowledge is unique in the Executive Branch of the Government, will be tested in ADAMHA for 1 year and then after any necessary modifications, will be extended Department-wide."

4. Office of Education Discretionary Grants

At the request of the Office of Education (OE) a small team of OIG and ASMB staff have made a preliminary review of the management of several OE discretionary programs.

Four problem areas have tentatively been identified:

a. The OE Grants and Procurement Management Division is not as effective as it should be in its oversight and administrative management of grants.

b. The peer review system does not serve as an effective check on excessive program discretion.

c. There is evidence of inadequate enforcement of conflict-of-interest procedures.

d. There is uneven implementation of Departmental and OE Grants Administration Policies among OE grant programs.

In the next year, we will be examining these broad problem areas and related weaknesses in greater detail. We expect to work with OE to devise a number of short and long term remedies for these problems.

5. Problems of Official Conduct in the Contract and Grant Awards

A range of problems were investigated during FY 1978 ranging from criminal behavior in the case of a Regional Commissioner of OE -- who accepted kickbacks and other favors from contractors and suppliers -- to situations where the individual was careless in failing to avoid an unintended conflict-of-interest situation, or the appearance of a conflict-of-interest.

The Ethics in Government Act introduces disclosure requirements and reviews that will go far toward avoiding such problems in the future. However, it is urged that the HEW General Counsel institute procedures under which key officials and consultants who have snesitive roles which can be construed as having an influence on the award of a contract and grant to an organization in which the indidivual has a financial or other personal interest, will be given special advice.

B. Audits of Contracts and Grants at Colleges and Universities

OMB has designated this Department as the cognizant audit agency responsible for providing all needed Federal audit services to about 94% of the nation's 2,500 colleges and universities. Audits have consistently disclosed major problems in nine areas which suggest that adequate record keeping and cost controls are a widespread problem at colleges and universities -- and hence, we do not have a sufficient degree of assurance that all Federal funds are used for the purposes that they were provided.

The nine problem areas are:

--Lack of Salary and Wage Documentation

--Improper, Late or Undocumented Cost Transfers

--Cost Sharing Requirements Not Met, or Undocumented

--Fringe Benefits Overcharged

--Improper Payments - Summer Salaries, Excess of Regular Base, Vacation Leave Charges

--Tax-Exempt Stipends Charged as Salaries

--Consultant Costs Undocumented

--Cash Management System Needs Improvement

--Acquisition, Control, and Accountability Procedures on Equipment and Supplies Need Improvement

Because the largest portion of the funds provided under cost reimbursable agreements is expended on the salaries and wages of institutional personnel, related fringe benefits and indirect costs; review of systems of accounting for salaries and wages have received the thrust of the Audit Agency's efforts. The most outstanding problem revealed by our audits has been lack of reliable documentation to support salary and wage charges to Federal grants and contracts.

1. Results and Recommendations

During CY 1978 we issued audit reports covering reviews of $1.5 billion of rependitures under HEW Grants and Contracts. Due to major systems deficiencies, we were unable to determine whether approximately $86.5 million of these expenditures were properly chargeable to the HEW projects involved. This does not mean that these costs were illegal or improper, but rather that they could not be audited under existing regulations and must be adjudicated by program managers. We further identified about $3.5 million of expenditures which were not properly chargeable to the HEW projects. Most of the $86.5 million and a large part of the $3.5 million were caused by deficiencies in the institutions' salary and wage systems or by inadequately supported or improper cost transfers.

Recommendations are included in the individual reports issued on each educational institution audited. These recommendations are directed to the educational institution and/or to the Principal Operating Component (POC) of HEW which provided the preponderance of HEW funds to that institution. The audit reports typically recommend that:

--The institution implement or revise its certification or review procedures to bring them into compliance with the requirements of FMC 73-8;

--The institution refund any unallowable expenditures which we were able to identify;

--The institution review the reasonableness and acceptability of salary costs and expenditure transfers whose allowability/unallowability we could not determine and make any necessary additional financial adjustments; and

--The cognizant POC determine the allowability of the substantial amounts of charges on which we were not able to express an opinion.

2. Actions in Process to Resolve Problems

The causes of the problems can be traced to both the Government and the institutions. Problems on the Government side appear to be unrealistic regulations, and lack of consistent actions to correct problems encountered by all Federal agencies concerned. From the standpoint of the faculty members, there has never been, in fact, a meeting of the minds on what reasonable Federal record keeping requirements should be. The requirements are unclear and subject to differing interpretations.

All concerned -- both the college and university administrators and HEW and other Federal agencies -- have been dissatisfied with this state of affairs and have started aggressive efforts to improve the situation. Major steps are:

--HEW submitted detailed proposals to OMB for revisions in the regulations. OMB has collected views from about 100 organizations and is preparing to promulgate revisions. The current target date is October 1979. Included in these revisions will be a new method (Monitored Workload System) of accounting for salaries and wages.

--The Secretary on February 14, 1978 issued a wide range of reforms which highlights the need for greater involvement and direction from the Department in resolving the audit findings and in working with the institutions to correct their deficiencies in a positive timely fashion. The reforms are:

--An HEW "Early Review" service that will offer advance consultation to colleges and universities on their proposed changes in accounting systems, where changes are necessary to meet revised Federal accounting standards.

--Assignment to HEW's Office of the Assistant Secretary for Management and Budget of a new responsibility for working with institutions to correct accounting system and reporting deficiencies.

--Sanctions by HEW against institutions or individuals that willfully violate regulations and policies or fail to correct system deficiencies after they had full opportunity to do so. Such sanctions could include disqualifying the institution or individual from receiving Federal grants.

--A new high-level HEW board will be established to review recommendations from the Office of Grants and Procurement for sanctions or other action against a noncomplying institution. The board will be composed of the Inspector General, the Assistant Secretary for Management and Budget, the General Counsel and the heads of the Department's Principal Operating Components.

--Departmental oversight of progress by the major HEW components in acting upon audit report recommendations. The oversight will be carried out by the Office of Grants and Procurement, as well as by the Inspector General who will make periodic on-site reviews of a deficient institution's progress in revising its procedures.

--A new rule limiting retroactivity of Federal audit claims against an institution to three years except when fraud or deliberate misrepresentation is involved. This rule will result in fairer and more consistent audit settlements.

--The Office of General Counsel will develop Departmental regulations providing for the disqualification and/or debarment of individuals and organizations as eligible applicants for grant and other assistance awards, where necessary, to protect the public interest from willful and material violation of regulations and policies, criminal acts, or other causes which seriously reflect negatively on the individual or organization's integrity, or ability to act responsibly.

--HEW will also continue to work with the grantee-contractor community, the Office of Management and Budget and the other Federal departments in clarifying and simplifying the Federal Government's record keeping requirements and bringing about needed reforms to the Federal cost principles.

C. Public Health Service (PHS) Grants - Double Payment Issue

The Department's Maternal and Child Health, Medicare, Medicaid, and Social Services programs are paying PHS grantees (such as Community Mental Health Centers) for services rendered to eligible individuals when, in fact, the same services were grant supported. Present procedures and policy are inadequate to prevent double payment.

We will conduct a review of the reimbursement policy, procedures and audit areas, and propose issuance of directives which will result in program savings.

D. Social Services (Title XX) -- Purchase of Services

The first Annual Report discussed the problems involved in the purchase of service by State agencies under Title XX. Contracting or purchasing of services has become the prevailing method of service delivery -- more than 65% of all Title XX dollars are expended through purchases from public (including other State agencies) or private agencies.

We have identified three significant weaknessess:

1. Contracting methods and procedures;
2. Cost allocation and rates of payments to providers;
3. Staff monitoring.

A management review presently being undertaken by OIG of 10 States with the largest Title XX expenditures indicates that they have made progress in addressing their inadequacies. Most of the States included in the management review have developed standardized procedures and manuals which specify what is required in order to be in compliance with Federal contractual and procurement standards and their own State administrative procedures. Some of the improved methods procedures include:

--Standardization of contracts, reduces ambiguous language and facilitates more efficient execution and monitoring of contractual arrangements.

--Preliminary review of potential providers to ensure fiscal capability to carry out required bookkeeping, accounting, and recording requirements as specified in the contracts.

--Development of error-and-abuse-prone profiles for use in the contracting process.

In spite of this progress, however, problems still exist with regard to the State agencies' ability to provide technical assistance (TA) to small providers, and the providers need to develop simple accounting and budgeting techniques to meet contractual requirements. Two problems slow this process: (1) lack of staffing on the State level and (2) Title XX training funds cannot be used to train other than direct delivery staff in provider agencies. Modification of the Title XX statute and Federal TA rules (e.g., supplementation of State staff efforts, regional conferences) would alleviate this problem. Equally important, however, is the need for the Federal Government to help the States develop procedures to handle fraud and abuse in social services. Our review indicated only three States have specific procedures.

Another major problem was the weakness in methods of cost allocation by the provider agency and thus in the development of reasonable rates. States have made some progress in developing uniform rates, based on the prevailing rate in a particular geographic area. Little examination has been made (except at the time of an audit) of what activities have been included in the rate and it is unclear how indirect costs should affect the establishment of "reasonable" rates. This is the area where the greatest amount of abuse has been found. When there are multiple funding sources with overlapping criteria for a particular service, such as family planning, indirect costs are often inappropriately allocated.

The third problem in which some progress has been made is in the quality and quantity of monitoring staffs. States have reorganized and redeployed staff to monitor purchase or service agreements; however, units remain understaffed and untrained. Several organizational patterns have emerged:

1. Generalized Unit

These units are usually centrally or regionally based; staff monitor all procurement agreements or contracts. They are usually responsible to the financial/comptroller division of the State agency and therefore monitor all contracts funded through that agency.

2. Specialized Unit

These units are usually at the bureau rather than the operational level and are attached as staff to a program division (e.g., Adult Services, Children and Youth). These units monitor contracts in a particular program area, only. Their focus is program, rather than fiscal requirements.

3. Generalized/Crisis

These are probably the lease effective. They are generally centralized units whose staff perform procurement functions, but who also, on a request or crisis basis, monitor purchase of service contracts.

4. Auditors

These are State auditors who may or may not be a part of the single State agency, but audit all State contracts on an annual basis. This is not very effective because the audit usually does not coincide with the contract renewal process.

5. Some combination of the above. Most effective when coordinated, but also most expensive.

In addition to the management problems enumerated in the first Annual Report, current audits have recommended financial adjustments of $6.3 million in four areas:

1. Ineligible Clients ($1,125,000);
2. Ineligible Services ($278,191);
3. Ineligible Expenditures ($4,515,775); and
4. Ineligible Matching Dollars ($397,723).

A handbook, "Federal Financial Participation in the Title XX Program" to be published in May 1979, should assist the States in reducing the amounts erroneously claimed. Additionally our upcoming OIG report on Title XX management will address many of the management inefficiencies together with recommendations for their solutions.

E. Proposed Regulations Permitting Debarment in Grant Programs

The Inspector General strongly supports the proposed regulations. They would affect all HEW discretionary grant and other financial assistance programs by permitting debarment of organizations and individuals whose past conduct evinces a lack of business integrity which directly affects their present responsibility to administer Federal funds. Debarment would be for a specific period of time, commensurate with the reason for debarment, except that deparment for discriminatory practices would be for an indefinite period until the cause is corrected. The regulations would be promulgated under 5 U.S.C. 301, the general authority of the Department to issue regulations.

The proposed regulations would further the overall HEW goal of assuring that funds awarded to carry out HEW assistance programs are expended solely for program purposes, by removing from eligibility fiscally irresponsible organizations and individuals. The key provisions would:

- Provide eight specific causes for debarment from financial assistance under HEW programs, including conviction of criminal offenses, showing lack of business integrity, and violation of the terms and conditions of previous awards.
- Provide all affected parties with an opportunity for a hearing, before debarment action is taken.
- Authorize suspension, pending debarment or other proceedings, for a limited period of time not to exceed 18 months, where there are compelling reasons to protect the interests of the Government. Hearings on suspension would also be provided upon request.
- Provide for publication of the names of debarred and suspended organizations and individuals in the Federal Register (comment is being specifically requested on alternative methods of informing affected members of the public such as grantees).

F. Assessment, Plans, and Recommendations

We believe that at this time the Department has identified the generic problems associated with contracts and grants management. At the direction of and with the strong support of the Secretary, the Assistant Secretary for Management and Budget and the Heads of Principal Operating Components, the Department is moving to correct the problems. A good start has been made in strengthening the Office of the Deputy Assistant Secretary for Grants and Procurement, instituting a program of review and oversight, and inclusion of a set of objectives in the Secretary's Management Initiatives Tracking System. Yet much remains to be done. We plan to maintain an overview of future progress and to conduct independent audits and reviews of these operations.

We believe the following matters warrant special attention in the coming year:

1. Contracting and grant practices throughout the Department should be examined by the Assistant Secretary for Management and Budget to test the conclusions reached in OIG reviews, namely:

   --Special measures and controls are needed to separate contracting operations and peer reviews from program influence -- in order to assure that they are impeccably free from favoritism or cronyism, and that competition is obtained wherever feasible.

2. The General Counsel should assure that all new officials

of the Department and others in very sensitive roles are given counsel and assistance to avoid their becoming involved in conflict-of-interest situations.

3. The proposed debarment regulation should be issued promptly to enable the Department to avoid, when appropriate, continued awards to programs or individuals who have demonstrated fiscal irresponsibility in administering discretionary grant or other financial assistance programs.

4. HEW should continue to work aggressively with the Office of Management and Budget and other appropriate organizations to improve the accountability of colleges and universities for Federal contract and grant funds. Prompt application of appropriate sanctions should be instituted against institutions who fail to correct systems deficiencies.

5. The "double payment issue" affecting Public Health Service grants should be addressed and resolved in the current year.

6. Special attention to improving the management of Title XX programs should be applied this year. An OIG report on the matter will be issued in the near future, and an OHSD technical assistance manual will become available in May.

Question: Were these primarily audits or investigations?

Answer: As with other types of contracts, the number requiring investigation is quite small compared to the numbers which are audited. All cost reimbursable contracts of a certain dollar size will be audited routinely; however, criminal investigations generally occur only in cases where there is cause to suspect impropriety.

Question: How were the consultant contracts that you reviewed brought to your attention?

Answer: Some consultant contracts were reviewed on the basis of their dollar size. Others came to our attention through allegations, complaints, or expressions of interest from the Secretary, the public, the Congress, and Agency Heads. Some reviews were conducted as a result of particular Inspector General concerns.

Question: What were the results of your investigations in terms of dollar refunded to the Government, cancellations of contracts, and referrals of cases to the Department of Justice?

Answer: Our management information system does not tract such results by contract purposes, i.e., consultant contracts. We cannot supply this information in total for all criminal investigations of consultant contracts; however, the example below illustrates the results of one investigation:

An HEW Audit Agency review revealed fraudulent discrepancies in the travel voucher claims of a Regional Commissioner of Education. Prosecution was declined; however, the U.S. Attorney requested investigation based on additional information into common stock transfers involving the Commissioner. Investigation disclosed that the Commissioner had received $10,000 in cash from a Consultant plus other favors from contractors and suppliers. Indictments were returned against the Commissioner and Consultant in April 1978. During trial in October 1978, both men entered changes of pleas and pleaded guilty to various counts of accepting and giving a gratuity. Both were sentenced to two years for each of the counts to run concurrently with three months to be served in custody, balance suspended, and placed on probation for three years.

Question: Do you have a system that will allow review of some consultant contracts each year?

Answer: Yes, as noted before, all cost reimbursable consultant contracts in excess of $100,000 are audited before closeout. Some consultant contracts are reviewed during comprehensive systems reviews of HEW programs at universities and other non-profit entities. Finally, other consultant contracts are reviewed on an "as-needed" basis and to meet Departmental and Inspector General concerns.

Question: Have you reviewed any HEW agency's consultant contract activities?

Answer: Yes. Throughout the work year, the Office of the Inspector General is involved in reviewing the policies and operations of the various HEW agencies including the Office of Education, the Public Health Service and the Social Services agencies. In the conduct of audits, investigations, and management surveys, consultant service contracts are examined and, as appropriate, are identified for corrective action. For example, the operating agencies frequently contract with consulting firms to assist in the evaluation of program activities. We have recently examined some products of such contracts and how they are used by the agency. Where it appeared the product had limited utility, we tried to determine why. Weaknesses in the management and monitoring of the contracts are also highlighted for necessary changes when such are identified.

Question: Do you find consultant contracts contain more potential for abuse than other types of contracts?

Answer: Not necessarily. There is nothing intrinsically different about consultant contracts that is felt to promote greater opportunities for fraud, abuse, or mismanagement. In terms of the dollar amounts involved, the amount of HEW funds used for consultant contracts is quite limited in comparison to other large program-related contracts. As a result, the potential loss of Federal funds if much smaller. We believe that all of the Department's procurement systems--grants and contracts--have the potential for abuse and that added management attention is needed throughout. Certainly, the Inspector General intends to keep this area as a major interest.

Question: In fiscal year 1978, HEW reported 642 consultant contracts for all HEW agencies. How many of these will probably be audited or investigated by your staff?

Answer: All of the cost reimbursable contracts in excess of

$100,000 will be audited. An undetermined number will also be reviewed or investigated due to allegations of impropriety or Secretarial or Congressional interest, and at the request of agencies or as a result of OIG interest.

Question: In fiscal year 1978, your own office awarded about $1 million for 8 consultant contracts. What were the purposes of those contracts?

Answer: From April 1, 1978 through September 30, 1978, we awarded eight contracts in excess of $25,000 for consultant fees and services. Five of these contracts were with State audit agencies; one was with a private accounting firm; and two were with the Small Business Administration. All eight of the contracts were for audits of HEW programs and funds including Medicare intermediary and carrier administrative cost proposals, AFDC, and Disability Determination Services.

Question: The Department includes audits by CPA firms within its definition of consultant services. OMB however, in its Bulletin 78-11, excludes audits by CPA firms in its definition of consultant services. In your opinion, should such audits be considered consultant services?

Answer: No. The services we contract for are audits which result in an end product - an audit report. This audit report is used to close out the contractor or grantee's operations for the period audited. The CPA firm, in effect, is doing the work we would do if we had the available manpower. The services provided to us by CPAs are not of a purely advisory nature relating to the governmental functions of agency administration and management.

Question: I understand you also conducted an audit and investigation of the Eppley Institute in connection with its contract with the National Cancer Institute. Why was the Institute's contract selected for review and what did your investigation reveal?

Answer: During 1977, the General Accounting Office audited the Institute's administration of a contract awarded by the National Cancer Institute. This audit identified various system weaknesses and cited examples of inappropriate charges to the contract. In response to a recommendation in the GAO report, the contracting officer requested that additional work be performed by the Audit Agency. The Audit Agency's review generally confirmed the conditions and management weaknesses cited by GAO. The audit report, issued on November 9, 1978, includes recommendations calling for a financial adjustment of $1.1 million and that certain accounting and administrative changes be made to insure that future charges to the contract are proper.

Question: Are you still reviewing the Eppley contract?

Answer: Investigations is currently involved in the investigation of Eppley Institute with the FBI in cooperation with and under the direction of the U.S. Attorney, Omaha. Since this is an ongoing Grand Jury matter, investigations is precluded from further comment.

CONSULTANTS

Question: Your immediate office used 301 individual experts or consultants at a total cost of about $564,000 in fiscal year 1978. Your immediate office also reported 39 consultant contracts at a cost of about $6.2 million. Why was it necessary for you to make such heavy use of outside consultants? Don't you have enough staff in your office to perform necessary tasks?

Answer: The responsibilities of the Office of the Assistant Secretary for Health are varied and quite complex. Oftentimes the services of an expert in a given field are required on a short-term basis to assist in the establishment of a program or the implementation of a special initiative. Those projects which are to continue for an extended period and become an integral part of the organization are staffed with full-time permanent employees. It is not practical nor is it desirable to permanently increase staff for a short-term on very specialized assignment. The very nature of the health field requires the use of experts to complement the efforts of permanent staff. In this way the knowledge and experience of individuals practicing in a given field will enable the federal government to keep pace with the ever-changing health arena.

Experts and consultants are utilized in a variety of areas such as physical fitness and sports, health information and health promotion, smoking and health, international health, and health policy.

An example of a short-term specialized project utilizing consultant services was the Surgeon General's Report on Smoking and Health. A number of experts took part in the preparation of that report and permanently increasing the staff in this instance would not have been appropriate.

The program efforts of the Office of the Assistant Secretary for Health include health services research, health statistics, and health maintenance organizations. Consultant contracts are awarded in these areas for special projects requiring assistance which is not available in-house. In addition, contracts for program evaluation purposes are included as consultant contracts.

Every effort is made to use the services of consultants judiciously.

TECHNICAL ASSISTANCE TO STAFFS OF THE PHS

Question: Why does PHS staff need technical assistance in carrying out their own programs? Since this technical assistance on PHS-funded programs is to be provided on a routing and ongoing basis, why is PHS relying on outside consultants instead of developing the expertise in-house?

Answer: The Bureau of Community Health Services (BCHS) initiates projects and monitors and sets and enforces standards for quality of care in grant projects which are funded under the numerous legislative authorities. BCHS technical assistance contractors perform a variety of essential functions in assisting the Bureau to carry out its management and administrative responsibilities. There is also a critical need for assisting BCHS in working directly with grantees to develop and manage health care delivery systems efficiently and economically.

The task involved in administering numerous programs require many and diverse skills. Also, the level and intensity of the workload varies at different times during the year. It would be impractical, inefficient and uneconomical to develop all the skills needed to perform the Bureau's responsibilities by hiring additional Federal employees for intermittant requirements in areas where highly specialized skills are needed. For example, certain skills are needed only for short periods of time. We should not hire a full-time person with specialized skills to meet these short term needs.

Consultant service contracts for assistance to PHS/BCHS staff account for 23.4 percent of the time under these contracts. The balance of time under technical assistance contracts (76.6 percent) is used to provide direct assistance to grantees to develop and initiate health services delivery activities and to improve the management, efficiency, effectiveness and quality of services.

The use of consultant services enables the Bureau to carry out necessary program responsibilities without adding to Federal employment.

MONITORING CONSULTANT UTILIZATION

Question:	How does your office monitor the utilization of consultants by the health agencies to determine whether they are overused or misused?
Answer:	My office receives a monthly report on conslutant useage by the health agencies. Teh report provides information on the total numbers of consultants on the rolls, the total employed during the month, and the number terminated or allowed to expire. In addition, as part of the report, the health agencies are required to highlight situations where conultants are employed more than 10 days in the month and report on any needed corrective action.

Each PHS agency has established internal guidelines and procedures to ensure that every consultant or expert hired is qualified and essential to the mission of that organization, that regular employees are not available to perform the work, that the pay level is appropriate, and that the action has been properly documented. Responsibility for certification of each consultant appointment is shared by the program official authorized to obtain the services and the appointing personnel management official. We primarily rely on agency management officials to oversee the process and assure that proper procedures are followed in the initial appointment and throughout the employment relationship.

INQUIRY ABOUT THE DISCREPANCY BETWEEN NIH REPORTS OF CONSULTANTS EARNING OVER $25,000 AND THOSE NOT REPORTED

Question: Do you have an explanation for the discrepancy between the information in your report and what our staff finds to be the case in actual practice?

Question: Why is your reporting process so bad?

Answer: The consultants not reported by NIH are the special experts authorized by Congress for the National Cancer Institute and the National Heart, Lung, and Blood Institute. Until December 1978, NIH operated under the Department's consultant reporting procedures. At that time, NIH was informed to include, in their future consultant reports, information on these special experts. These are being reported in fiscal year 1979 reports and will be funded out of NIH's overall consultant ceiling allocation.

Question: What does the Department do to determine whether NIH contracts are properly classified and reported to the committee?

Answer: We have recognized recently that our operating definition of consultant services can lead to confusion by our agencies about the distinction between research and closely-related consulting services. This difficulty in classification could disproportionately affect reporting by NIH, because research is its primary mission. Consequently, NIH and other agencies apparently have categorized some consultant services as research, and vice versa. To clarify the distinction, and assure more accurate reporting, we are:

- developing more detailed instructions concerning the distinction between research and consultant services.
- designing a procedure requiring agency officials to certify whether a contract is or is not a consulting service according to the definition in our directive on management consulting services.
- increasing the number of spot checks to determine how accurately the agencies are applying the definition, to alert us to the need for corrective action.

Question: We have had previous testimony showing that because this subcommittee was given a $30 million overestimate of HEW's total expenditures for consultant services during fiscal year 1978, the Committee's effort to limit 1979 consultant spending to the 1978 level was thwarted, and the Department actually was able to increase its consultant spending by $35 million. The overestimate was almost entirely in NIH and other PHS programs. How did this poor estimate come about and when did you first discover it?

Answer: The inaccurate initial estimate for the level of 1978 consulting services resulted from the difficulties of implementing the new controls required by Congress. There was some confusion as to what should or should not be reported, and there were some projects which were initially defined as consultant services which upon closer scrutiny were determined not to be for these services as defined by Congress. The inaccuracy of the estimate was noticed at the time of the first quarterly report.

Question: Did the health agencies actually forego planned consultant contracts during 1978, or did they merely classify certain consultant contracts ad something else when reporting their actual consultant costs to the Committee?

Answer. the NIH did actually forego some consultant contracts during 1978. The consultant costs reported to the Committee represent the actual cost to NIH of consultant services.

Inquiry about the 400 NIH "Expert" Consultants

Question: Isn't this just another way to get around the personnel ceiling?

Answer: Congress authorized the appointment of Special Experts free of normal ceiling allocations in recognition of the need for NIH to plan and manage its biomedical research mission and related activities to meet new initiatives and expanding research programs. Special experts are not used to fulfill functions which should be performed by in-house staff. At present, NIH scientific and professional staff are currently being utilized to their full capacity. The special expert authorities are being utilized to acquire additional expertise and to undertake term assignments of a nature for which normal appointment mechanisms are not appropriate.

These ceiling free positions were originally authorized by Congress in recognition of the National Cancer Institute and the National Heart, Lung, and Blood Institute, need to secure sufficient numbers of specially qualified scientists and professionals to conduct its activities without being limited by reduced DHEW personnel ceilings.

Question: Don't many other health programs have problems with personnel ceilings too?

Answer: Yes. However, most of our consultant contracts and appointive consultants are obtained to perform projects which require special skills or qualifications not available with present staff.

In addition, most consultant contracts are for relative short term projects of less than several years duration for which it may not be desirable to staff with permanent employees.

Question: What have you done to improve your estimating procedures so such an overestimate will not occur again?

Answer: With the experience of 1978 and planning for 1979, the NIH has become more familiar with the definitions and parameters of reportable consultant services. This familiarity has enabled us to refine our estimating procedures, and dictated a high level of management involvement in the planning and wared of these contracts.

Question: Does a program manager have any incentive to report or not report a particular contract as a consultant contract?

Answer: Theoretically, a manager may have some incentive not to report a contract as a consultant contract in order to avoid the ceiling and other controls. To prevent this happening, we are designing a system which will require agency officials other than program managers to certify whether or not a contract is consultant services and is properly reported as such.

Question: Do you make an effort to monitor repeated use of the same consulting firms?

Answer: Yes, the Administrative Compliance Staff monitors their use through consultant service semi-annual reports which identify the frequency of contracts with various large firms.

Question: How and who determines whether a particular contract should be competitive or sole-source?

Answer: This is set forth in HEW Procurement Regulation (HEWPR 3-3.802-50). Decision criteria, noncompetitive justification requirements and levels of review and approval are all specified. Usually the project officer will make a recommendation on this decision and if competitive, will furnish a suggested source list. The recommendation will be reviewed by activity management and the contracting officer before the latter makes a decision. Approval levels for noncompetitive procurement vary among agencies for specific dollar thresholds.

Generally, all contracts must be competitive unless the contracting officer and the project officer feel only one source is capable of performing the contract. In many instances, this belief must be "tested" by advertising for other qualified sources. If other qualified sources are discovered, competition is required. For each sole-source project, the reasons for the sole-source must be documented and fully justified. These justifications are subjected to the closest scrutiny by designated officials and their staff before the sole-source award is approved. Although the process is the same for all types of sole-source contracts, we have greatly restricted sole-source approvals where consultant contracting is involved. In PHS, the approval officials for sole-source consultant contracts are:

- The Assistant Secretary for Health for projects costing $25,000.
- Agency heads for projects costing less than $25,000.
- Bureau, institute, or division heads for projects costing less than $10,000.

Question: Who monitors the performance on the contract?

Answer: A project officer is appointed at the time the procurement of the proposed service is approved, or before. The project officer is responsible for monitoring the technical aspects, and functions as the technical advisor to the contracting officer, who is responsible for seeing that contractual obligations are met. These responsibilities continue until performance is completed, accepted, and final payment is made.

The project officer's monitoring responsibilities are defined in a widely disseminated publication, "Guide for HEW Project Officers." In addition, the Department has an internal instruction, "HEW Procurement Regulation 3-57," dated 10/6/77, detailing monitoring responsibilities.

It is the goal of HEW that all project officers receive training in this area. Beginning January 1, 1980, all program personnel serving as project officers on any HEW contract must have successfully completed the HEW project officer training course or its equivalent.

Question: Who is making the decisions to award these types of (consultant) contracts?

Answer: HEW General Administration Manual (GAM) 8-15 spells out the approval level, depending on estimated dollar value, of any proposed consultant contract. In general, it is at the agency head or top administrative official level.

Question: How do you determine the contract route is the proper route?

Answer: HEW-GAM 8-15 provides guidance whether to contract or obtain services in house. Guidelines on a contract or grant decision are in the Grants Administration Manual, Ch. 1-02. This latter instruction is consistent with the provisions of the Chiles Act, P.L. 95-224, enacted February 3, 1978, which establishes Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties.

The Act requires (1) use of a procurement contract when the principal purpose of a transaction is acquisition, by purchase, lease, or barter, of property or services for the direct benefit of use of the Federal Government; and (2) use of an assistance instrument (grant or cooperative agreement) when the principal purpose of a transaction is the transfer of money, property, services or anything of value to accomplish a public purpose of support or stimulation, authorized by Federal statute.

Approximately 800 PHS personnel attended the HEW project officer training course during fiscal years 1978 and 1979. A similar number are scheduled to attend the course during the next year.

Question: How do you determine whether results are responsible to the contract and usable by the agency?

Answer: Both the project officer and the contracting officer are responsible, as discussed above, for the contractor's satisfactory completion of contract requirements. Utilization of the contract results is the responsibility of the agency program office.

Departmental procedures (GAM Chapter 8-15, "Consultant Services") require an assessment report on each contract. Results of the contractor's performance are compared against the requirements of the contract. The report must state whether or not the contract purposes were achieved and the impact of the completed project; i. e., the application of the findings.

Question: How do you terminate an activity when it is not achieving its intended purpose?

Answer: All DHEW contracts contain a provision which permits DHEW to unilaterally cancel a contract. A notice of termination is prepared by the contracting officer which will state the reason for the termination and the effective date of the termination. The termination is not subject to appeal.

In those instances where it is apparent that some portion of the overall contract performance will not achieve the desired results, the Department negotiates the deletion of that work with commensurate reduction in funds or negotiates a redirection of effort which will bring about the desired improvements.

Question: In 1965, NIH entered into a contract with the Pan American Health Organization to perform a nutrition survey among selected Indian groups in the Guatemalan Highlands. The original contract was for $133,910 for the period June 17, 1965 through June 16, 1966. The latest modification to the contract was dated August 28, 1978 and increased costs to about $5.8 million. What was the reason for this contract?

Answer: The contract in question is Contract No. N01-HD-5-0640, with the Pan American Health Organization. This contract began on June 17, 1965 and terminated August 30, 1978, with total costs of $5,786,149.00. At the time this contract was initiated, there was high scientific and social interest in the effect of moderate malnutrition on growth and intellectual development of children, and whether a low-cost proteim and/or calorie supplement to their diet would reduce or eliminate any adverse effect. This study was designed to help answer those important scientific and policy questions.

Question: What do we expect to find out by surveying Guatemalan Indians?

Answer: This study was not a survey but rather a longitudinal intervention study. Initially, measurements of children's growth, dietary intake, and intellectual function were made in four rural Guatemalan villages. Guatemala and these villages were selected as the site for this study because of the high prevalence of moderate malnutrition, the non-mobile nature of the population (so that all would be availabel for five years of followup), and the availability of a group that could work with the population and was interested in pursuing the issue. Following collection of baseline data, a protein-calorie dietary supplement was made available free to all pregnant and nursing women and to all children in two villages, and a calorie supplement in the other two, from 1970 to 1973. Measurements of growth and intellectual function were then made until age 5 on all the children studied. The research showed that physical growth and intellectual performance were significantly improved in the children in all four villages, and that calories alone were as effective as protein plus calories in achieving this improvement. The cost of the effective supplemental is 10¢/day. The results have broad applicability throughout the world.

Question: Since much of the work described in the contract involves survey data collection, and since other agencies of HEW report such work as consultant services, why wasn't this contract reported as a consultant service?

Answer: The contract was not reported as a consultant service because it was a research contract, as is clear from the foregoing description of the work that was done. The contractor established contact with the villages, made the measurements and did the testing, set up the diet supplement distribution system, measured consumption, did the postintervention examinations and tests over 5 years, tabulated and analyzed the data, and prepared papers which are now ready for publication in scientific journals. These are clearly research tasks, not consultant tasks.

Question: Is there some mabic process which converts these services into research when they are performed under contracts for NIH?

Answer: No. This project was clearly research and did not provide consultant services to the Institute.

Question: The National Institute of Child Health and Human Development also awarded eleven contracts totaling $2.2 million to study the determinants of adolescent pregnancy and childbearing. The contracts were awarded during the last 2 weeks of the fiscal year.

Some of the studies appear to be duplicative in whole or in part. Why were multiple contracts awarded?

Answer: Multiple contracts were awarded because the RFP requested research on a range of issues relating to the determinants of adolescent pregnancy and choldbearing, and no one project would be able to address all of those issued. Each contract is addressing a different aspect of this problem. Careful staff monitoring of this research ensures that the studies are complementary, not duplicative.

Question: Is it really necessary to do this many studies on the determinants of adolescent pregnancy?

Answer: Yes. Adolescent pregnancy is a topic of considerable complexity and the factors leading to an adolescent pregnancy relate to the woman's individual characteristics, those of her partner, their relationship, peer pressures, parental and other social influences, the delivery of educational, informational and clinical services relating to sexual activity and contraception. The projects funded under this RFP are only part of an ongoing research effort relating to adolescent repreductive behavior.

Question: What use will be made of these studies?

Answer: Since many of these projects are exploratory, the findings of some will be used to guide future, more definitive research into the determinants of adolescent pregnancy. Others are likely to provide information that may be used by health care providers and educators regarding adolescent sexual and contraceptive behavior. As these studies increase our understanding of the factors associated with adolescent sexual and contraceptive behavior, they will improve our ability to render accurate and useful recommendations relating to policies which deal directly, or indirectly, with adolescents.

Question: Why weren't these reported as consultant contracts?

Answer: These projects are research contracts and do not fit the definition of consultant contracts, i.e., they are not providing services in support of internal operations, relating to the planning, management and operation of external organizations, involve surveys, or include program evaluation.

Question: If these were basically research contracts, why were they not handled as grants?

Answer: Proposals for these projects were received in response to a request for contract proposals. The contract mechanism was used because this program of research requires active staff participation for initiation, surveillance of data collection and analysis. Among other things, staff monitoring ensures a coordination of effort by a number of investigators. The purpose of the research is to provide epecific information to the government to be included in a broad program of research on adolescent childbearing which is used in making policy recommendations. As contracts, these proposals received a rigorous scientific review by an outside ad hoc peer review group.

Question: In January 1978, the National Institute of Child Health and Human Development awarded two contracts totaling $123,000 concerning childlessness and the one-child family. In February 1978, the Institute requested contract proposals for additional studies in this same subject area. The Institute received 90 proposals and recommended funding 20 new contracts with 17 different contrctors at a total estimated cost of $2.4 million. Six contracts were awarded effective September 30, 1978, with funding totaling $453,000.

Is there really a need for 22 contracts to study the subject of child-lessness and one-child families?

Answer: Yes. These projects cover a wide area of research concerned with the consequences of childbearing and childspacing, and in particular the consequences of low fertility. While demographic analyses point to an increase in zero and one-child families, very lettle work has been done to date on either of these topics. Special emphasis was given in the Request for Proposals (RFP No. NICHD-BS-78-9) to a call for small scale, in-depth studies covering a part (or the whole) of the life spac of couples and children in childless and one-child families. The 22 studies approved under this RFP are an initial stage in research in this area. No one project would be able to address the multiplicity of issues relating to very low fertility. Because many aspects of this issue were included in the RFP, multiple awards were anticipated. The projects that have been approved cover many, but not all, of the areas of needed research relating to the consequences of childlessness and one-child families.

Question: How can you be sure there is no duplication of effort in a massive survey such as this?

Answer: The proposals recommended for funding do not constitute a massive survey, but rather a program of small studies, each addressing different aspects of the consequences of very low fertility. Staff involvement in the writing of workscopes, review of the proposals, and ongoing monitoring assure that there is no duplication of effort. Contractors' workshops are convened when a number of investigators are working on related issues to further assure that the projects will be complementary, not duplicative. It is, however, often important to have two or more investigators addressing the same general issues to provide a reliability check on findings.

Question: What efforts are made to assure that the contractors follow uniform procedures which will produce comparable results?

Answer: Staff monitoring, including contractors' workshops, are used to assure that comparisons across research projects are possible and that results will be, insofar as is feasible, comparable. Staff members are assigned to monitor contracts on the basis of their expertise and generally one person is responsible for projects in a related area.

Question: The eight contracts funded during fiscal year 1978 consisted basically of surveys, data preparation and processing, and data analysis. These contracts were not reported as consultant services, but were considered as research contracts. Why did you classify these surveys as research and not consultant services? If research, why were they not handled as grants?

Answer: These projects were not reported as consultant services because they involved research and not the provision of services. Other projects approved for funding, but not yet funded, involve surveys, but the surveys are only a portion of the research workscope of the contract. Specifically, the contractors are developing research protocols, carrying out the data collection efforts, analyzing the results and providing the government with a comprehensive report. The survey is an integral part, and in direct support of, the research project. The contract mechanism is used because of the defined nature of the research, and the need for constant staff direction and input.

Question: The staff has found that many of the contracts classified as "research and development" in the National Institute of Child Health and Human Development appear to come within the Department's definition of "consultant services." For example, a $400,000, 3-year study on American Attitudes Toward Abortion was awarded to the University of California on September 30, 1978. This study provides for the contractor to commission the Gallup poll organization to ask the U.S. public about abortion attitudes, and analyze the resulting data.

Why wasn't this classified and reported as a consultant contract?

Answer: Contract NO1-HD-82832 "American Attitudes Toward Abortion" does not fit the definition of consultant service. The contractor is carrying out a complex research project, of which the subcontract with the Gallup Poll organization is a part. The survey is in direct support of a much larger research project. The Principal Investigator is developing the questions to be used, and carrying out an involved analysis of the data to be received from the Gallup Poll organization.

Question: Why was it necessary to work through the University rather than contracting directly with the Gallup ortanization?

Answer: UCLA responded to a request for proposals and submitted a proposal which included a subcontract. As noted above, the data collection to be done by the Fallup organization is part of a larger research project. The principal investigator is carrying out related analyses that do not involve the Gallup Poll organization.

Question: If this was really a research contract, why was it not handled as a grant so that it could be subjected to the normal study section peer review process?

Answer: A research contract involves a more specific workscope and much greater involvement of program managers in directing the research. This research contract was received in response to a request for contract proposals. As a contract proposal it received rigorous scientific review by an ad hoc group of peer reviewers from outside the government.

ADOLESCENT PREGNANCY INITIATIVE CONSULTANTS

Question: There has been some controversy surrounding the selection of consultants in the adolescent pregnancy initiative in the Office of the Assistant Secretary. Can you tell me what criteria were used for selecting these consultants? Are these criteria published and are applicants sought from all over the country?

Answer: Criteria for selecting consultants for the Adolescent pregnancy initiative include the following qualifications: experience in the field of providing adolescent pregnancy services in a broad context; knowledge and experience in relevant academic and professional disciplines; creditable level of performance in present or most recent field of work; attested maturity, credibility and integrity in personal and professional relationships; acceptable status among pears; active concern and capability in the field; past employment by recognized agencies, institutions, and organizations in the field; skills and attitudes in functioning effectively on team projects and/or individual assignments, sensitivity to the concerns, needs, and problems involved in working with pregnant adolescents and adolescent parents; evidence that present or most recent fields of work present no conflict of interest. Consultants will be asked to file a detailed list of organizations and associations that might tend to have a bearing on the question of conflict of interest. These criteria have not yet been published because the Office of Adolescent Pregnancy has not yet been funded. When funding is approved by Congress the criteria will be published and applicants sought from all over the country. A limited number of consultants have been working with the Office in order to get the program underway.

Inquiry On Contract With University of California at Berkeley

Question: Why isn't the development of a graduate program a sole responsibility of the University?

Answer: The model demonstration program which was developed with both University of California and Federal resources was one of a number of prototype programs which were initiated in response to a national need for more physicians. This program offered the potential for training more physicians, a national priority in the early 70's. Utilization of existing resources on the University's campus seemed a cost effective and innovative approach to this priority. Students are receiving a great amount of their education on the existing UCB campus.

Question: If this is a Federal responsibility, was there any reason why this was awarded as a contract instead of a grant?

Answer: Given the Federal interest in developing cost effective models for training health professionals, the contract mode provided the best vehicle for ongoing monitoring of the project and the shaping of deliverables to most national as opposed to local needs. The Government was purchasing the development of a model educational program which could be used in other parts of the country.

Family Planning

Question: The Alan Guttmacher Institute received $191,000 to put together a 5-year plan and progress report for Family Planning services. This is obviously a special interest group that will probably be associated with many of the family planning federal guarantees. Shouldn't such managerial tools as 5-year plans be developed in-house?

Answer: The contract with the Alan Guttmacher Institute is for the purpose of providing the data compilation and analysis of information needed by DHEW to assess the status of family planning services in the United States. When the request for procurement was advertised by competitive bid, the Alan Guttmacher Institute was the only bidder. The Department does not presently possess adequate in-house capability to perform this work. One of the priorities of the Deputy Assistant Secretary of Population Affairs during 1979 is to review data needs, in-house analytical capacity, and availability of qualified staff to determine the feasibility of preparing all necessary materials for the five-year plan in-house in future years.

Question: $6.6 million has been obligated so far to 7 consultants to develop regional burn care delivery systems.

How much more do you plan to spend for this purpose and why?

Answer: The collection of information and data must be done at several large regional sites. The low incidence of this type injury, the long period of morbidity (to include acute and rehabilitative care), and the absence of reliable existing records require a prospective uniform data collection, analysis and evaluation effort. The project uses 5 to 6 regional sites for the three year contract period to examine national and multi-regional issue of care and the cost of care for burn patients. The uniform data bout incidence, patient care and costs will be processed and evaluated by a third-party contractor. The contractor is primarily concerned with the data and analyses pertinent to four national issues. For these reasons the project cannot be done in-house.

The project is time phased over three years with interim milestones and reports.

The $6.6 million was obligated in FY 1977 and 1978. For the third and final phase of the program a total of $3.7 million is being made available in FY 1979.

Question: HEW awarded at least four contracts in fiscal year 1978 to associations to perform services which appear to be the direct interest and concern of the association. The four contracts were with:

--Alcohol and Drug Problems Association of North America to conduct their annual meeting.

--International Association for the Study of Pain to conduct the Second World Congress on Pain in Montreal, Canada.

--American Physical Therapy Association to refine and verify the role of entry level physical therapist and physical therapy assistants.

--Cystic Fibrosis Foundation to assess the state-of-the-art and future direction of research in cystic fibrosis.

Why is it necessary for HEW to support these activities which appear to be the direct interest and concern of the associations?

Answer: (Alcohol and Drug Problems Association of North America) In accordance with the congressional mandate to improve the quality of alcohol and drug abuse services, the National Institute on Drug Abuse (NIDA) in cooperation with the National Institute on Alcohol Abuse and Alcoholism (NIAAA) funded the Alcohol and Drug Problems Association of North America (ADPA) to provide three services:

- a continuing education program for professional and para-professional drug and alcohol abuse workers attending the ADPA annual meeting;
- arranging for continuing education credits to be awarded to attendees who fulfill certain additional requirements; and
- provision of a special research training workshop for scientists receiving Research Fellowships from NIDA and dissemination of the results of this research to the field.

The ADPA Annual meeting is a nationally recognized forum which attracts a sizeable number of drug and alcohol abuse workers, providing an excellent opportunity to upgrade the skills of a large number of workers. Therefore, it is in NIDA's interest, and even its responsibility, to provide for this mutually beneficial activity. By providing partial support for the ADPA meetings, NIDA has capitalized on an effective and cost-efficient means of providing training. The educational content of the meeting is upgraded, furthering the Institute's objective of providing quality trainees.

Furthermore, health professionals are increasingly required to participate in continuing education programs to maintain and enhance their skills. By funding ADPA to arrange continuing education units, NIDA is enabling drug and alcohol abuse workers to document their education and enhance opportunities for career mobility. Through the ADPA contract, the Research Fellows are provided an opportunity to learn from senior experts in the field and to share their findings with the rest of the field.

(Second World Congress on Pain) NIDA is the leading institution which supports research in the areas of endorphins (endogenous morphine-like substances in brain) and analgesia. The Second World Congress on Pain provided an excellent opportunity to review the current state of the science in these areas at much less cost (and with a much wider attendance) than would have been possible if NIDA were to solely sponsor such a meeting. Thus, the decision to hold this symposium at the World Congress provided the largest audience of pain researchers ever assembled. The funds provided to the International Association for Study on Pain IIASP) went principally to this targeted symposium, which dealt with an area of highest priority for NIDA. The funds that NIDA provided to the IASP were not meant to support this association but to further knowledge and scientific communication among researchers seeking new approaches to the treatment of pain.

(American Physical Therapy Association) The Project with the American Physical Therapy Association does not provide support to the Association. Rather, it is part of a comprehensive and carefully monitored program to develop more effective means of defining and assuring competency of health personnel.

In 1971, the Department responded to a requirement (Sec. 799A) of The Health Training Improvement Act (P.L. 91-519), by preparing a "Report on Licensure and Related Health Personnel Credentialing" which identified the major problems related to licensure, certification, and other qualifications for practice or employment of health personnel. This focus of Department interest and effort was recapitulated in a 1973 progress report by the Assistant Secretary for Health. The Congress reiterated its posture of 1970 through enactment of the Health Professions Educational Assistance Act of 1976 (P.L. 94-484).

During 1971, the Division of Associated Health Professions of the Health Resources Administration responding to the appropriate Departmental recommendations, undertook a comprehensive effort in competency assurance programs. A very basic objective was and is to develop evaluation instruments and related materials which address the performance requirements essential for competent practice To establish credentialing on this basis requires, for each occupation, intensive work in three phases: role delineation, examination development, and examination administration. As part of this work, the department contracted with the American Physical Therapy Association.

(The Cystic Fibrosis Foundation) The study of the State-of-Art in Cystic Fibrosis and Directions for Future Research Efforts was undertaken in response to a directive from the Labor-HEW Subcommittee on Appropriations, U.S. House of Representatives Committee on Appropriations. The relevant 1977 House Report (No. 1219) stated that: "The Committee is convinced that cystic fibrosis research deserves priority attention and therefore directs that a study be undertaken and completed within the next year on what is being done in research and patient care in cystic fibrosis and allied diseases. The study should include a compilation of cystic fibrosis research and treatment activities within the Public Health Service, including NIH, and the outlook for future research breakthroughs."

Accordingly, the National Institute of Arthritis, Metabolism, and Digestive Diseases and the National Heart, Lung and Blood Institute initiated the Congressionally-mandated study, which was conducted by the Cystic Fibrosis Foundation.

Question: Is it normal practice for HEW to support these and other associations in this manner?

Answer: HEW only supports activities which are in the direct interest and concern of an association when to do so is essential for accomplishing a department objective.

These state-of-the-art studies supported by the NIH are typically conducted under the contract mechanism. The contractor may be a commercial consulting firm, a not-for-profit organization, or other qualified non-Federal entity. For example, in the case of the cystic fibrosis study, it was determined that the Cystic Fibrosis Foundation possessed the optimal expertise and capabilities to perform the Congressionally-mandated analysis, which included participation of over 150 scientists, physicians, allied health professionals, health care administrators, public representatives, and government officials, as well as CF patients and their families.

Question: What do these efforts provide to the Government other than report?

Answer: As noted by the House Appropriations Committee in 1979, the reports emanating from the cystic fibrosis study "form a solid basis for expanded research into cystic fibrosis." That this is indeed the case is evidenced by recent NIH efforts to implement recommendations emanating from the cystic fibrosis study within the limits of available resources. For example, several Institutes have developed and issued a coordinated announcement calling for research applications in cystic fibrosis. Moreover, a national conference on cystic fibrosis research was held during the first week of March, 1979, and plans are currently being made for a workshop on research resources. At the same time, the National Institute of Arthritis, Metabolism, and Digestive Diseases is preparing detailed brochures based on the cystic fibrosis report for distribution and scientific and professional meetings. Through these and other efforts, the NIH is informing the research community of its commitment to supporting meritorious studies in cystic fibrosis, and is attempting to deal with problem areas -- such as research training -- which were identified in the cystic fibrosis study.

Meetings such as the Second World Congress in Paris result in more than just another report. New ideas and approaches for the treatment of pain and related diseases were discussed, and new kinds of experiments were suggested. After meetings such as this, many of the scientists who attended will modify and update their various ongoing experimental procedures in a positive fashion. NIDA will use this meeting for research planning and for making future budget decisions concerning research in the area of endorphins and analgesia.

The outcome of the Contract with the American Physical Therapy Association and other input serves as the foundation or keystone for a series of subsequent component activities including 1) the preparation of guides for competency based curriculum design for use by educational programs, 2) development of self-evaluation, and 3) development of continuing deficiencies identified through self-assessment or necessitated to accommodate changing practice requirements, and 4) development of competency based examinations for use in certification and/or licensing of personnel.

NIDA funded the Alcohol and Abuse Problems of North America in fiscal year 1978 to provide training to drug and alcohol abuse workers, to provide a means of documenting this training, and to provide for the training of Research Fellows and sharing their results with others in the drug and alcohol abuse fields. NIDA is not currently funding ADPA.

National Cancer Institute

Question 1: According to GAO, the Institute contracted out with Tracor-Jitco for the bioassay work because of inadequate number of in-house staff apparently told the GAO that were considering terminating the contract and performing the duties in-house.

Answer: It took NCI roughly from FY 1954 to FY 1971 to reach a level of $78 million for targeted developmental programs utilizing contracts. In FY 1974, Congress appropriated $180 million for contracts. In other words, it took us 18 years to reach $78 million, and then three additionalyears to go from $78 million to $180 million. During these three years, our total budget increased by 150 percent while our staff increased 27 percent. The direct impact on the bioassay program was to increase its budget from $ million in 1972 to $13.5

million in 1974. This increase plus the mandate to test more chemicals resulted in greatly expanded bioassay efforts.

NCI did not have enough contract or scientific staff, nor could it attract the kind of professional staff, needed to manage the greatly enlarged bioassay contract program, e.g., toxicologists, veterinary pathologists, and contract specialists. We therefore decided to experiment with a systems management prime contract, which was new to NIH but often used successfully in the DOD and NASA. The advantages of this concept were envisioned to be that the project officers, contract specialists, and others in the Bioassay Program would be able to delegate to the prime contractor a portion of their responsibilities associated with day-to-day coordinating and managing of 15-20 contracts in the program. The NCI staff could then devote more time to the substantive areas of the operation which require overall control and direction through the interface with the systems manager. In addition, we expected more cost-- and science--effective management procedures to be devised and implemented by a specialized systems manager contractor.

NCI has not assigned new chemicals for test to Tracor Jitco since January 1979 and plans to start new contractual activities in-house. We have a number of RFPs in progress (closing response dates are in June) for NCI directly to place chemicals in contractor laboratories for bioassay work. While NCI is in the process of starting up its own contract mechanism, the Tracor Jitco contract is being considered for extension to complete work previously assigned in order to maintain a cost-effective even workflow at the contract laboratories. (Please see answers to questions 5 and 6 for greater detail.)

Question 2: Has the Institute overcome the staffing problems which allegedly caused them to contract the work out in the first place?

Answer: We have had a very active recruiting program in the last few years which has enabled NCI to fill many of our vacancies. While we have been reasonably successful in the vital areas of toxicology, the verinary pathology vacancies are still difficult to fill because they are in high demand and because of limitations on government salaries. At present, we have 52 full-time positions; of which 32 are filled and 7 more have individuals identified. Of the remaining thirteen openings, 8 are for professionals and 5 for support staff.

The bioassay effort represents only a portion of our total program. Other portions include in vitro (5 positions), and technical information (12 positions) efforts. There are also a number of specific bioassay program functions performed by NCI staff, such as experimental design, data evaluation, and chemical management. As a result of the Leach Amendment, NCI's personnel ceiling was reduced 122 positions in FY 1979 creating staff shortages in other areas affecting contract management.

Question 3: The General Accounting Office concluded that "The National Cancer Institute has taken little initiative to develop the specialists it needs." Do you agree with this assessment?

Answer: Our research is to sponsor specific extramural training programs to increase the supply. These programs will not solve the problem for 3 to 10 years, but it is the only solution we deem practical.

Internal training programs, as suggested by CSC are deemed impractical because they would require diversion of such qualified staff as we can attract from the production aspects. It is difficult enough to deny such scientists the opportunity to perform research, without also requiring them to take on burdensome training responsibilities.

Question 4a: How many cancer-causing substances have been identified and removed from use as a direct result of the Tracor Jitco contract?

Answer: The removal of cancer-causing substances is the responsibility of regulatory agencies. Actions taken by regulatory agencies depend upon the specific legislation applicable to the substance in question and may range from an outright ban to some less dramatic control measure. Recent amendments to the Community Mental Health Act (P.L. 95-622, November 9, 1978) require the Secretary, HEW, to publish Annual Reports containing specific information on environmental cancer-causing substances. Among them is a requirement to identify cancer-causing substances with respect to whether or not a regulatory standard has been established. For each substance with a regulatory standard, an assessment is to be made as to the effectiveness of the standard in reducing risk to public health resulting from exposure to the substance in question. The initial Annual Report is planned for completion by the end of the calendar year. It is expected that the Annual Reports will be able to provide a precise answer to your question.

Question 4b: Please name some of them.

Answer: Some chemicals in the bioassay program on which federal regulatory actions will be or have been taken, and of which we are aware, are:

tris (2,3-Dibromopropyl)phosphate
chlordane
heptachlor
kepone
chloroform
trichloroethylene
dibromochloropropane

ethylenedibromide
dimethoate
aldrin
dieldrin
nitrofen
toxaphene
hair dyes
dicofol
sulfallate
piperonyl sulfoxide

Question 5: Dr. Upton, Director of the National Cancer Institute, testified on May 22, 1979, before the Senate Subcommittee on Labor/HEW Appropriations on the status of the Tracor-Jitco contract. He said the contract will be "phased out" over a four-year period at an estimated cost of $65 million. From information provided by NCI, we have learned that the costs of the contract will actually increase over the first three years with funding levels of $16 million, $17 million and $20 million respectively. If the contract is actually being phased out, costs should decrease. How do you account for this?

Answer: As noted in the answer to Question 1, chemicals for test were assigned to Tracor-Jitco through January 1979. It will take approximately four years to complete studies on these latest assignments. The costs associated with these studies are a direct function of the test stage. The early stages (procurement, chemical analysis, and prechronic toxicology) are less expensive than the later ones (chronic toxicology and pathology evaluation). Thus, cost reductions will not be apparent until the majority of studies have been completed. Given below is a more detailed account of the factors influencing costs.

The placing of chemicals on test is a multi-step process requiring considerable effort and planning before the compound is actually given to the first animal (started). After a chemical is selected and assigned to Tracor Jitco, a thorough literature search is performed and the information condensed into a "Toxicity and Safety Report." This document is then used to develop the experimental protocol by the NCI Experimental Design Group, along with rationale for testing and needs of the participating members of the NTP. The protocol for each chemical is individually designed to maximize the information received from the experiment. After a sufficient number of bioassays are designed, the chemicals are placed into appropriate groups of three to twelve and Tracor Jitco then submits these to qualified laboratories for competitive proposals. The proposals are received, analyzed, and contracts negotiated for bioassays. Once the contract is signed, the chemicals are placed on test over a period of time to allow for orderly scientific operation. Usually they are started 4 - 6 weeks apart.

The cost features of a bioassay are dependent upon the detail and scientific expertise needed at the various steps. Essentially, the costs rise with time since the experiments proceed from simple to more complex. In the latter stages, histology and pathology are very critical, and these areas have the highest cost factors. Thus, cost-wise, there is a bulge at the end of the bioassay which accounts for the rise in expenses the first three years of the Tracor Jitco extension. The Tracor Jitco costs themselves are relatively uniform; it is the subcontracting laboratories who will receive most of the monies discussed.

Question 6:	Dr. Upton also testified that the extension of the Tracor Jitco contract is for completing bioassay tests already underway and that no new work will be begun. From information obtained from the Cancer Institute, we have learned that Tracor Jitco will begin work on 62 new tests between June 1979 and March 1980. Is this in fact the case? If NCI plans to assume the contractor's responsibility, why is it unfeasible to do so at this point in time?
Answer:	The sixty-two chemicals referred to in your questions were assigned to Tracor Jitco in January 1979 and considerable work was performed on them through the contract stage before May 31, 1979. (As explained previously) animal experiments are scheduled to being after June 1, 1979. It is important to note that the decision to consider the extension of the Tracor Jitco contract (a mutual one involving the Director of the National Toxicology Program) was made in the public interest of obtaining data on chemical compounds as soon as possible. The NCI does not have adequate staff to manage the 108 chemicals assigned to Tracor Jitco, and at the same time handle all new work in-house. Any attempt to move the program to another contractor would involve the loss of time and money and there would be an interruption in the flow of testing and the need for educating a new contractor (which would not be cost effective). The estimate of $65 million to phase out this contract is the maximum cost to complete the testing of 65 chemicals under the current contract which expires May 31, 1979.
Question:	How many contracts has Tracor-Jitco had with HEW over the past five years, and what is the total amount of those contracts?
Answer:	Records at HEW and PHS show that from FY 74 through May 1979 (approximately 5½ years) Tracor-Jitco has been awarded 24 contracts with a total value (including modifications) of $43.675 million.

Question: NIAAA has been funding the National Clearinghouse for Alcohol Information and also has been funding the National Center for Alcohol Education. What is the relationship between these two programs?

Answer: The purpose of the National Center for Alcohol Education is to develop model training programs and materials which can assist the alcoholism field in developing and increasing skills and resources for the delivery of a wide range of prevention and treatment services. The Center's training packages include courses in management skills for alcohol program administrators, alcoholism counselor skills, continuing education for community health nurses, prevention skills for youth workers, and others.

The National Clearinghouse for Alcohol Information is NIAAA's information service. Its job is to search out the worldwide literature on all aspects of alcohol and alcoholism and share this knowledge with the professional community and the general public. The Clearinghouse provides a broad range of information services, including: answers to inquiries from researchers, teachers, program administrators, families of alcoholic people and many others; preparation of a monthly Information and Feature Service containing news about the latest developments in the field and a quarterly magazine with in-depth articles for alcoholism professionals; and distribution of a wide range of information materials, from bibliographies and translations of foreign research articles, to posters and popular pamphlets.

As NIAAA's information service, the Clearinghouse is responsible for distributing all training materials developed by the National Center for Alcohol Education. The Clearinghouse provides warehousing, inventory, and mailing services for NCAE packages. In addition, the Clearinghouse uses its many information channels to alert the alcoholism field to the existence of new training materials produced by the Center. The Clearinghouse's Information and Feature Service and the magazine provide information about NCAE's products to more than 50,000 alcoholism workers. NCAE materials are included in the Clearinghouse's library, referrals to NCAE products are made through NCALI's reference service, and information on the Center's packages is included when NCALI sends exhibits to professional meetings. The Center, in turn, alerts its trainees to the existence of NCALI services and products.

Cooperation between the two services is written into the work statements of both contracts. A coordinating committee of NIAAA and contractor staffs oversees the planning and implementation of cooperative activities.

Question: Can't NIAAA keep track of and make its own annual report on Federal alcohol programs?

Answer: The scope of this work is greater than is probably realized. There are at least 30 Federal organizations that have ongoing activities in the area of alcohol abuse and alcoholism. There are insufficient in-house staff within NIAAA to carry out the collection, analysis, synthesis, evaluation, and interpretation of program data in these multifarious programs.

Question: NIAAA surely has developed some expertise in the field of alcohol education. Why isn't the Center operational with in-house staff?

Answer: Under this contract, the National Center for Alcohol Education developed and disseminated a large number of training programs to the alcoholism field including regional, State, and local organizations, public school systems, voluntary organizations, and other Federal agencies such as the United States Marine Corps, United States Air Force, Department of Transportation, Office of Education, NIDA, etc. During the period of this contract, 25,381 alcoholism training packages were provided to these outside organizations. In addition, the NCAE developed specialized alcoholism programs for alcoholism counselors, health care providers, community-based alcoholism prevention programs, programs for unemployed persons, etc. Special programs were also developed for use by all 50 State Alcoholism Authorities. During the period of this contract, the NCAE developed three specialized alcoholism prevention education programs which were targeted for use by women, Blacks, and parents of young children. These programs were distributed, by the NCAE, through the 50 State Alcoholism Authorities and resulted in approximately 20,000 individuals being trained. The NCAE also provided technical assistance to these organizations in order to implement the programs including the regional and State-level training programs, sponsored by non-Federal organizations, throughout the nation.

The technical expertise required to research, design and develop quality training and education programs distributed and used throughout the country is currently not available within NIAAA because of limited staff resources. The contract mechanism enabled the Institute to develop a local prevention and public education program which assures that national prevention techniques, messages, information, and ideas receive maximum exposure in the communities across the country as well as being able to afford the Institute a flexible program approach to obtaining needed technical expertise on a short-term basis, covering a wide range of disciplines. This let the Institute accommodate changing priorities as well as enabling NIAAA to augment or terminate different types of expertise in order to meet program goals and objectives in an efficient and effective manner.

Question: Isn't this an ongoing program that can and should be handled in-house?

Answer: The National Clearinghouse for Alcohol Information provides for the acquisition and dissemination of a wide range of scientific, technical, programmatic, and popular information on all aspects of alcohol and alcoholism. Responding to the changing and expanding information needs of the alcoholism field calls for flexibility in program planning, organization, and, especially, staffing. Maintaining the Clearinghouse operation through the contract mechanism provides NIAAA with the flexibility and responsiveness needed to meet the changing requirements of the alcoholism field and to keep up with the latest developments in information science technology. The technical expertise required to develop and maintain the Clearinghouse's computerized information files and other technical information services is currently not available within NIAAA. The contract mechanism provides the ability to hire, quickly, the necessary highly specialized staff. The Clearinghouse contract provides for a total of 84 man-years of effort. This level of effort supports a comprehensive operation, covering information services which range from translations of international alcoholism research to provision of selective notification services for alcoholism professionals. The manpower and expertise to provide these services are not now available within NIAAA to operate this program.

Question from the Senate HEW Appropriations Subcommittee

Question: Why can't HEW disseminate this information through its regional offices and public information offices?

Answer: The field program staff serves as a link between NIAAA, the regions and States, and the alcoholism field. The objectives of the field program include developing and maintaining contacts with major national groups and organizations in two areas: national business organizations and religious groups. It also provides communications assistance to State and local governments and alcohol-related agencies. In carrying out these objectives, the field program staff works through the regions, and particularly through the State Alcoholism Authorities. The regional staff alone is not equipped to handle the comprehensive communications program required as part of the field project. Although the field staff carries out its communication objectives in cooperation with regional, State and local contacts, effective operation requires direct communication with the headquarter staff. With two professional staff in NIAAA's Public Information Office, NIAAA does not have the manpower to handle a comprehensive communications program and effectively disseminate information throughout the country.

Question: To what extent does NIAAA utilize the work of other Federal agencies such as the Office of Education's Alcohol and Drug Abuse Program?

Answer: Efforts to prevent and reduce alcohol-related problems require coordination and collaboration with many Federal agencies. In fact, we have been moving toward greater collaboration with other agencies over the last few years, and anticipate that our efforts to target prevention activities and to carefully define problems and high-risk population groups will accelerate this development.

Cooperation and coordination among substance abuse prevention and education authorities is critical if we are to promulgate the most effective prevention programs for our youth. We have attempted to foster such cooperation at the Federal level through several interagency endeavors. Our own Institute jointly developed with the Department of Transportation a comprehensive curriculum for children in grades K through 12. This curriculum, entitled "Alcohol and Alcohol Safety," has been widely accepted and used in schools throughout the country. In addition, NIAAA and the Office of Education have just completed a $1.3 million project involving the development of two series of alcohol education films--one for the junior high level and the other for the senior high level. Our plans to publicize the availability of these films include bringing together the Single State Agencies and the State Department of Education's chief drug educators for a joint meeting.

The Interagency Committee on Federal activities for Alcohol Abuse and Alcoholism, mandated by Public Law 93-282 and chaired by the Director of NIAAA, is becoming a valuable medium for exchange of information and for policy coordination. Work groups have been formed in several areas of special interest and are now meeting regularly. The Office of Education and NIDA are represented on the prevention work group, as are other relevant Federal agencies and departments. This work group serves as a forum for assessing the direction and emphasis of all Federally supported alcohol prevention programs. On its recommendation, the Department of Transportation, the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, the Federal Trade Commission and NIAAA last year jointly funded a contract to study the effects of alcohol advertising on perceptions about alcoholic beverages and attitudes toward consumption of alcohol, particularly among young people. We look forward to receiving the results of the study and hope this joint effort will serve as a model for other activities with these agencies in the future. NIAAA is moving toward even greater collabroation with other Federal agencies. Many of these activities are the result of the Secretary's keen interest in alcohol-related problems and are part of the series of alcohol initiatives he announced early this month. Let me note just a few of them:

- The Health Care Financing Administration will be devoting $1 million to demonstration projects to provide alcoholism services in new, less expensive and more effective ways.
- The Health Resources Administration will be devoting $2 million to 15 special new programs in medical schools for teaching future doctors how to treat alcoholism.
- We have ongoing collaborative efforts with the Bureau of Alcohol, Tobacco, and Firearms and the Food and Drug Administration regarding the Fetal Alcohol Syndrome and related issues such as labeling and public education.
- We continue to work with the Veterans Administration and the Department of Transportation.

Question from the Senate HEW Appropriations Subcommittee

Question: Does NIAAA intend to utilize a contractor to prepare the 1978 and future reports?

Answer: There will be two separate reports on Federal Activities for FY 1978. The first report will be a brief preliminary report designed to assure the timeliness of submission of the Annual Reports to Congress on Federal Activities. The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism passed a resolution in January 1979 for each member to coordinate the preparation of a summary report of major activities and accomplishments by the end of March. Although still incomplete, NIAAA staff are attempting to integrate the material for the first report into a final draft for clearance review and ultimate submission to Congress.

In addition for the second more detailed report, NIAAA has contracted for the development of detailed program and project data covering FY 1978 that is comparable to the data collected and reported under the Marco contract for FY 1977. These data and the final report prepared under the contract will be utilized for the preparation of a technical document supporting the FY 1978 Report to Congress on Federal Activities.

Question: In view of the Assistant Secretary's highly critical comments, why was this contract extended?

Answer: Although the NIAAA makes many individual project grants for the treatment and prevention of alcoholism, there is a concern that the problem is not being dealt with in any comprehensive way. There is a fundamental need to mobilize state and local resources in ways that will cause a general awareness and responsiveness to the alcoholism problem across the country. The field representative program is an attempt to gain access to local media, and other community activities intended to give greater exposure to the problem, and maximize the public education coverage of NIAAA programs and activities. It should also enlist the involvement of individuals who, because of their unusual influence in the states or regions, are able to gain access to media and otherwise operate successfully within states and localities in stimulating prevention messages through the media, working with community organizations in addressing alcohol problems and enhancing the dissemination of NIAAA materials to public outlets, e.g., professional and amateur sports, schools, etc.

When the field representative program was first implemented, we had serious reservations regarding its effectiveness and ability to address problems of alcoholism in a comprehensive way. The first extension of the program was therefore limited to providing continuity of support for two of the five field representatives in this contract while it was determined whether further support of the program was warranted. We subsequently decided to support only two individuals to increase public awareness of alcoholism by working with the various media to enhance state and community alcoholism program efforts, and a second extension was necessary to allow for continued coverage while two new contracts were awarded. One contract was made on a sole source basis to cover the western states and local government bodies, while a second was awarded competitively to permit representation to major religious bodies as well as eastern state and local government bodies.

The projected cost of the individual contracts for two representatives is in proportion to the original contract covering five people, or 40% of the original expenditures.

1978 SUPPLEMENTAL

In Fiscal 1978, the Office of Education was provided with a $2.3 million supplemental appropriation to meet increased postal costs.

However, an internal memo, dated September 8, 1978 and addressed to the Commissioner of Education states that there was a surplus of $2 million in the Office of Education's Salaries and Expenses account at the end of Fiscal 1978.

The memo says, "The $2,094,000 in excess is available to us from several sources including the Mail Bill Supplemental which accounts for over $1.8 million of the excess." The memo to the Commissioner goes on to state, "These funds can be made available to you to allocate as you see fit."

Q: Where does the Office of Education get the authority to change the intent of Congress in deciding how to use these funds?

A: We do not believe that the intent of Congress was changed. As stated earlier, the Mail Supplemental was not needed to meet fiscal year 1978 mail costs since the Office of Education was able to absorb the additional mail costs within existing Fiscal Year 1978 resources, largely out of savings achieved through various economies. As a result, the full amount of the Mail Supplemental was then returned to Treasury at the end of the year.

Q: Why didn't you request that the funds be reprogrammed rather than left to the Commissioner to "allocate as he sees fit?"

A: We do not believe that a reprogramming action is necessary to shift funds within a line item of an appropriation. In the Office of Education, Salaries and Expenses appropriation there are only two lines items -- Program Administration and Advisory Committees. Accordingly, it was our view that it was proper to internally reprogram these funds to appropriate and related administrative purposes within the Program Administration line.

Q: What really happened to these funds? First we hear that these funds can be used by the Commissioner in any way that he chooses and then the Executive Deputy Commissioner testifies that the funds had lapsed.

A: In fiscal year 1978, the Office of Education realized savings which allowed the absorption of the additional postal costs (such additional costs prompting the Mail Supplemental) as well as the funding of certain administrative projects. Therefore, the amount of the $2.3 million supplemental appropriation was ultimately not needed to cover actual 1978 mail costs and was subsequently returned to the Treasury.

Q: How do you explain the testimony of the Executive Deputy Commissioner on March 12, 1979 before this Committee that $1.6 million of the Mail Supplemental lapsed and was returned to the Treasury?

A: The fiscal year 1978 supplemental of $2.3 million for mail costs was based upon early estimates. The final bill submitted by the United States Postal Service was substantially less than anticipated.

In addition, the Office of Education realized savings in 1978 in such areas as personnel compensation, travel, and rent.

The funds made available through these economies, together with the money left over from the Mail Supplemental, amounted to the $2.3 million returned to the Treasury at the end of fiscal year 1978.

Q: Why is it necessary for the Forum which is made up primarily of Washington-based organizations, to use federal funds to travel around the country to hold informal exchanges with the Commissioner of Education?

A: All meetings of the Forum have been or will be held in the Washington area. We have paid travel for attendance at the Forum meetings because while most of the organizations are Washington-based, many of their executives and top officers live in other parts of the country. As noted on page 3029 of the testimony, in the future we will be taking a much closer look at the budget and the contract process. I believe that conference arrangements can be handled inhouse, rather than through a contract.

Q: Was this (consultant contract for meetings with AASA) really an unsolicited proposal or one that the Office of Education wanted to fund through some pre-arranged agreement, or sweetheart deal?

A: The proposal was unsolicited. It,in fact, was submitted because of the O.E. administration of federal programs showed a lack of awareness of key educational issues at local and state levels which are of national concern.

There was considerable concern that O.E. lacked perspective

from grass-roots levels on elementary/secondary educational issues needing to be addressed in order to establish national priorities and,

to give O.E. impact on concerns for improving administration of federally funded programs at the federal/state and local levels. AASA was aware of this need and submitted a proposal.

Q: How do you explain the statement in the business clearance that says this proposal was solicited by the Office of Education?

A: The statement in the business clearance stating that the proposal was solicited by the Office of Education indicates that an individual involved in a technical process made the statement. The individual evidently confused favorable internal comments regarding the proposal with the content or purpose of the unsolicited proposal itself. The educational merit of the proposal lent itself to internal promotion of the proposal.

Question:

Was major surgery performed on this proposal during the remaining one or two days in the fiscal year?

Answer:

Programmatically, no "surgery" was performed. The project officer was satisfied with the proposal and recommended no changes to the technical portion of the proposal. Financially, however, there were major revisions which were critical. Establishment of a "not-to-exceed" ceiling on overhead of 35% of salaries, wages and fringe benefits was considered necessary to protect the Government against possible large increases in overhead. Receiving a detailed fringe benefit breakdown resulted in a small reduction; however, it raised a concern over the 14.68% for retirement. Had time permitted, a review of the retirement plan would have been conducted since the amount appears high in relation to other procurements and other organizations.

Other reductions in the cost proposal were relativeley routine and could not be considered major.

QUESTIONS ON CONFERENCE CONTRACTS WITH THE FORUM

Q: Isn't negotiating grants or contracts in the last days of a fiscal year just plain bad management?

A: This has been a concern of the department for a number of years. Secretary Califano has directed OE to distribute awards more evenly throughout the fiscal year. This will result in a substantial reduction in the percentage of awards made during the last days of the fiscal year and will allow more detailed scrutiny of proposals.

The normal cycle for a competitively negotiated procurement is approximately six months. Therefore, in the best environment, the majority of awards will be made in the second half of the fiscal year.

In most agencies, there is invariably an "end of the year" crunch. Early procurement and grant planning scheduling and monitoring will alleviate the "crunch."

There will be instances when end of the year negotiations are necessary; however, they should be kept to a minimum.

This agency is making a concerted effort to minimize the end of the year procurements and will continue to do so.

Q: What was the reason for your interest in this contract?

A: The interest in this contract is based on the Forum itself and the organizations/associations which it represents.

The Forum is an assembly of the national organizations in education inclusive of the two teachers' unions (NEA and AFT) and parent associations. Seldom if ever are these groups brought together to discuss and "act upon" national education issues.

In summary then, the interest in the contract was to gain the advise and counsel of key national education associations and organizations representative of the thousands of educators, administrators, parents, et. al., who drive the educational enterprise in America.

Q: Why can't the Commissioner and other education officials receive information from these groups without having to pay for it?

A: OE feels that certain officials or experts who come to these functions at our requests should be reimbursed for their expenses. These groups are able to meet with the Commissioner from time to time, but these conferences are an opportunity to bring them out of isolation to discuss common issues and goals.

Q: How many meetings of the Forum have been held with funds from this contract?

A: To date three meetings of the Forum have been held. They were:

1. November 6 and 7, 1978 at the Dulles Mariott Hotel
2. March 23 and 24, 1979 at the Hyatt Regency in Rosslyn
3. June 4 and 5 at the Ramada Inn in Rosslyn.

Q: When and where will the remaining meetings be held?

A: The remaining meeting will be held on September 7 and 8 in (Rosslyn) Arlington, Virginia.

Q: Why does the Office of Education need to spend $1.3 million for consultants to hold meetings?

A: The Office of Eduaction occasionally needs to augment its staff for purposes of arranging and managing special conferences. The ceiling on personnel appointments has forced OE to do this more often than we would wish to . Also arrangements for conferences, are often made more economically by consultants. OE plans to reduce conference expenses in FY 1979.

Q: How do you explain the memo that called this "another must for Boyer?"

A: This is another case of a technician's (memo) confusing the Commissioner's favorable response to the content and purpose of an unsolicited proposal with his (the Commissioner's) substance of the proposal itself.

Q: Hoe many must-fund proposals does the Commissioner have each year?

A: The Commissioner of Education rarely becomes involved in the awarding of contracts in the Office of Education. The large majority of our contracts (75% in FY 1978) go through a lengthy competitive process which includes preparation of a work statement, request for bids, and negotiations before they are awarded. In most instances where competitive procedures are not followed, proposals must be submitted to the Non-competitive Review Board which determines whether the strict sole source criteria have been met. In a very few instances (we estimate fewer than 25 times each year) the Commissioner will become involved in the contract process and direct that a sole source proposal be funded. He does so only when in his judgement, a proposal will be particularly effective in assisting the Office of Education in administering its program in a manner consistent with its obligation as a federal partner in the educational enterprise. Some examples of sole source contracts which met the sole source criteria and which fell into this must-fund category in FY 1978 are:

-- American Association of School Administrators
(Forum of Educational Organization Leaders)
$93,077
(mentioned in testimony)

-- Council of Chief State School Officers
To provide CSSOs an opportunity to probe, exchange and contribute to the thoughtful analysis of educational issues
$126,000

-- PUSH/EXCEL
  o Conference $25,000
  o Indianapolis Public Schools, $99,960
  o Exodus, Incorporated (Atlanta, Georgia)
  $335,253
  (These last two are Cities in Schools projects)

-- Education Commission of the States
To define and implement an appropriate State role in Indian education
$130,000

-- Rhode Island Teachers Center Project
Development of a model for cooperation between a State educational agency and the AFT and NEA in teacher training programs.
$298,803

-- Puerto Rico Planning Contract
Development of an Island-wide counseling system designed to meet the unique needs of Puerto Rico.
$50,000

Q: In January of 1979, the Office of Education funded a conference entitled "Restoring Confidence in Public Education - An Agenda for the 80s." The cost of this conference was $105,000. On May 16-17, O. E. sponsored another conference. This one was called "Public Confidence and the Schools." This conference cost $55,350. How do you justify spending funds for two conferences on the same subject?

A: The Office of Education provided only partial support for the first conference -- "Restoring Confidence in Public Education." Other sponsors of this conference included the Office of the Assistant Secretary for Planning and Evaluation, the Office of the Assistant Secretary for Education, and the National Institute of Education. The Office of Education provided the total support for the second conference -- "Public Confidence and the Schools."

At first blush, both conferences appear to be identical. However, there were major differences, particularly in the purpose of each activity. The purpose of the jointly funded conference, which was carried out by the National Urban Coalition, was to focus on an agenda for the 1980s. Its objectives were to address a number of problems facing urban schools and their student populations and to render them more effective in meeting the educational needs of the poor and minority children. The purpose of the second conference, the OE conference, was to initiate a strategy for gaining public confidence in education through programs that work and by working cooperatively with the extended community to achieve this goal.

The substance of the first conference revolved around the issue of school finance reform and the activity of the National Urban Coalition on the same subject. The content of the second conference focused on strategies to regaion public confidence and examples of programs that are doing that. General workshops were held to demonstrate successful cooperative projects between the schooling and the extended communicities, in the following areas: Reading, Cities and Schools, Title I, Parent Participation, Communicyt schools, Volunteers, Sensitizing the Mayor to School Needs, Instructional Skills, Discipline in the Schools, School-Community Relations, and Impact on Media in Education.

Q: Didn't anyone in HEW object to the expenditure of funds for either or both these conferences?

A: The Assistant Secretary for Education did not approve the May 16-17 conference. Her denial was appealed to the Under Secretary, who approved the conference.

Q: Where, specifically, did the funds for these conferences come from?

A: Support for the January conference was received from:

Office of Education-	$25,000
Office of the Assistant Secretary for Education-	$30,000
Office of the Assistant Secretary for Planning and Evaluation-	$25,000
National Institue of Education-	$25,000

Support for the May conference was received from the Office of Education's Elementary and Secondary Education Appropriation, Right to Read Program.

Q: What was gained by holding these conferences?

A: The first conference provided a comprehensive presentation of current State-of-the Art in urban education issues through the delivery of five papers on major topics:

- The Historic and Current Roles of Public Education and the Public's Attitudes Toward those Roles.

- Strategies for Improving School Effectiveness and Accountability.

- Quality and Equality: The Regulation of Public Schooling.

- The Social Cost and Economic Benefits of Free Public Education.

- Financing Public Education: The Threat of Disinvestment.

The second conference demonstrated successful programs and practices where the schooling community and the extended community have worked together and encouraged continued cooperative support from both.

Q: How do you justify using tax dollars to hold conferences?

A: Conferences represent one tool for improving education in America. The Office of Education uses conferences judiciously to held educators share positive experiences, identify new directions, and respond to the educational needs of the nation. As education is a decentralied social service in the United States, conferences present one of OE's few opportunities to develop and articulate common policies.

Q: What proportions of your evaluations are done in-house?

A: In years prior to FY 1979, virtually all evaluations were done under contract. Perhaps two studies per year amounting to three percent of evaluations underway in any given year and involving very little money, was the average in-house activity. In FY 1979, however, we began a series of managemenr-oriented evaluations designed primarily to define feasible goals and objectives for programs administered by the Office of Education. We are conducting nine of these studies during FY 1979, and four of those nine evaluations are being done entirely in-house. There is large in-house effort for the other five studies also, although amounts ranging from $25,000 to $100,000 will also go to Contractor activities. For FY 1979, therefore, it would be fair to estimate approximately 10% of evaluations as done entirely in-house, with large in-house effort in an additional 7% of our studies.

Question:

Over one-half of the consultant contracts reported by the Office of Education involved program evaluations. Since the Office of Education has one of the largest evaluation staffs in the government, why is it necessary for us to contract out so many evaluations?

Answer:

The Office of Education has an evaluation staff of about 45 professionals to administer an evaluation budget of approximately $25 million. The $25 million comes from a general Planning and Evaluation budget line item ($5.2 million) and a series of evaluation set-asides from various programmatic sections of the OE budget (e.g., Title I of ESEA), many of which mandate specific evaluation studies. There are several reasons why it is both necessary and desirable for us to contract out almost all our evaluations. First, the typical evaluation study requires data to be collected, usually on a pre/post basis, on thousands of children on a national sample of schools throughout the country. The data collection, data analysis, and report preparation activities of all education evaluations far exceed the in-house capacity of the OE evaluation staff. For objective, data-based evaluations to be carried out entirely by the in-house staff, it would require a major expansion of that staff to accomplish the work (field interviewers, testers, data coders, statistical analysts, computer specialists, etc.). It is far more cost-effective to purchase these specialized data collection and analysis services on a project-by-project basis than it would be to provide for them with a much enlarged, permanent Federal staff. In addition to the matter of size of the field work and analysis tasks required for good evaluations, contracting out has the additional important advantage of having the field work for the evaluation done by an independent third party. For these reasons we have developed a system in which the basic design of evaluations are developed by the OE evaluation staff, thus ensuring that the evaluation will deal with the right questions and proceed along proper methodological lines, and then the field work and data analysis are contracted out through the standard competitive procurement process. We believe this is a far better system than either trying to do everything in-house (which as noted above would require a major enlargement of Federal staff), or turning everything, including the design of the evaluation, over to an outside body (where our experience indicates that the utility, relevance, and methodological quality of the evaluation often suffer). For these reasons we do the larger proportion of our evaluations through this in-house design/outside field work system. The evaluation staff works with program and policy offices to determine

Question:

What does your evaluation staff do besides monitor consultant contracts?

Answer:

First, "moniroting" of contracts should be defined and understood as a complex process covering the entire duration of an evaluation, findings and recommendations. This involves negotiations with program and management staff in the Office of Education and in the Department regarding proposed evaluations, development of a detailed study design as part of the Wrok Statement for contract procurement, chairmanship of the contract procurement panel, monitoring the contractor's performance and providing technical direction, participating in the forms-clearance process, reviewing draft reports, preparing an Executive Summary for general distribution of study findings, preparing a Policy Implications Memorandum or other appropriate policy documents based on study findings, and follow-up Staff members carry one or two studies on the average devote 50-70% of their time to this.

Much additional staff time goes to ensuring utilization of evaluation information in decisions on program operations. Office and Department policy and initiative in legislation, and budget proposals. In this sense, professional staff act as technical consultants to program and agency management and may devote from 10-30% of work time to this activity.

Formal reporting of evaluation findings was referred to above in connection with Executive Summaries and policy documents based on study findings. In addition, each year we prepare the Annual Evaluation Report on Programs Administered by the U. S. Office of Education, a compendium of evaluation information including history, program goals and objectives, program scope, and program effectiveness and progress. Staff members may devote 5-15% of work time to formal reporting of this kind.

A major activity of this Office is implementation of the mandate originally in Section 151 of P.L. 93-380 and now in Section 183 of P.L. 95-561. This mandate requires specified activities in technical assistance for evaluation of the ESEA Title I program. Approximitely 30% of professional staff are involved in this activity and may devote 15-90% of work time to it.

Professional development is a necessary and continuing activity for this staff. Members may deliver papers at professional conferences or otherwise contribute to development of evaluation methodology, or participate in professional training, devoting approximately 5% of their time on the average to this activity.

Question:

In September, 1977, GAO found that results of the evaluation contracts were not being implemented, and recommended the use of Policy Implementation Memoranda to assure implementation of evaluation results. HEW agreed that such action should be taken. However, as of last month, the staff found that the Office of Education was still not preparing such memoranda. Why not?

Answer:

The Policy Implemenation Memorandum mechanism which the GAO recommended be more broadly implemented was invented by the OE evaluation staff as one means of increasing the use of evaluation findings. GAO's observation that it had not been widely implemented was correct. Part of the problem stems from the fact that the mere development of a Policy Implementation Memorandum by the evaluation office is frequently not enough to assure full acceptance and implementation of it. Consequently, steps are being taken under the direction of the Executive Deputy Commissioner for Resources and Operations to create a special unit which will have as one of its major duties the responsibility of ensuring that not only are such documents as Policy Implementation Memoranda developed, but that appropriate managerial and programmatic steps are taken by those responsible for the affected programs to implement the results of the evaluation. Even though the formal system of the Policy Implementation Memorandum and a mechanism for ensuring their implementation clearly need additional effort, it should not be concluded that evaluation studies are typically not used. Examples of the utilization of evaluation studies are detailed in the attached paper which is a section of the Annual Evaluatuion Report prepared by the Evaluation Office and forwarded to Congress each year. Also, see the Commissioner's testimony in response to the Committee's direct questioning on this issue in relation to the uses made of the recent evaluation of the Title VII Bilingual Education Program.

Question:

Why are most consultant service contracts awarded so late in the year?

Answer:

The competitive award process in OE is at least a seven month process. Due to this fact awards are made in the last half of the fiscal year. Major milestones in the process are: development of initial work statement (1 month); review and approval (1 month); solicitation (45 days); review and evaluation (1 month); and negotiati[illegible]d award (1 month). With an appropriation passed in [illegible]all of the fiscal year, contracting efforts start in Janaury, with the first competitive awards in June and July. OE is attempting to improve over FY 78. Scheduling efforts have been initiated by the Grant and Procurement Management Division for FY 80 and OE expects to award contracts more in April and May of 1980.

Question: Doesn't all this year-end rush make it nearly impossible to properly evaluate Requests for Proposals? Isn't this an example of bad fiscal management?

Answer: The year end crunch to award all contracts, at times, does result in a hurried preparation, evaluation and negotiation of awards. OE has attempted to improve its workload planning and contract scheduling efforts in FY 79. These efforts have resulted in some degree of success. The quarterly distribution of number of awards during FY 78 was 2%, 8%, 26%, 64%. In FY 79 OE awarded 4% in the first quarter, 15% in the second quarter. Projected third and fourth quarter award goals are 41% and 40% respectively. The amount of time involved in the competitive award process precludes other than third and fourth quarter awards. Major milestones in the competitive process are: development of initial work statement (1 month); review and approval (1 month); solicitation (45 days); receipt and evaluation (1 month); award and negotiation (1 month). OE has initiated its FY 80 contract scheduling efforts and awards will be more evenly distributed in the April - September months.

* The 40% is OE's fourth quarter award goal for the number of consultant contracts. The Secretary's goal of 30% is for the cost of consultant contracts.

Question: What is the total percentage of consultant contracts awarded by PHS and the Education Division during the fourth quarter in FY 76, 77, and 78?

Answer: PHS awarded 56 percent of its consultant contracts during the last quarter of 1978. No records were kept by quarter for Fiscal Years 1976 and 1977.

In FY 78 OE awarded 80% of its consultant service contracts in the fourth quarter. ASE awarded 57% of its consultant service contracts in the fourth quarter. NIE awarded 53% of its consultant service contracts in the fourth quarter.

In FY 76, NIE awarded 32% of its consultant contracts in the fourth quarter. In FY 77, NIE awarded 58% in the fourth quarter. OE and ASE do not have the same information system as NIE; for OE and ASE, the data are not comparable to FY 78 and FY 79 data, because of changes in both the definition of consultant services and the OE-ASE reporting system.

Question: How many of the consultant contracts with the Public Health Service and the Education Division are awarded during the last month of the Fiscal Year?

Answer: In FY 78, the Office of Education awarded 74 consultant service contracts in September, the National Institute of Education awarded 9, and the Office of the Assistant Secretary for Education awarded 11.

PHS does not have an available report of consultant contract award data by month. PHS is obtaining data on the last month of fiscal year 1978 and will subsequently provide a report to the Committee.

Question: What would be the effect it this Committee included language in 1980 Labor-HEW Appropriations Bill stating that no consultant contracts could be awarded after June 30, 1981 without the consent of the committee?

Answer: Requiring committee approval of fourth quarter consultant contracts in FY 80 would cause delays in essential program work. The late Congressional action on appropriations (just before the start of the fiscal year) and lengthy procurement process already push the actual awarding of many contracts to late in the year. Additional review by the committee would further delay tasks vital to program operations.

It would also burden committee staff members who would have to make decisions in program and/or technical areas with which they are not familiar. In addition, decisions to approve contracts would be removed from program components with the closest, most up-to-date knowledge of the area.

Finally, it would diffuse accountability for program operations and individual program decisions between the agencies and the committee.

Question: Are you using these contracts to insure that left-over program funds will not lapse at the end of the year?

Answer: No, there are two major reasons why contracts awards often happen late in the year.

First, the awarding of a contract is usually a very long process from initiation of the procurement plan to signature on the contract award. Major milestones in this process include: development of draft work statement; review and approval; consultant service certification by either the Commissioner or Assistant Secretary; solicitation; review and evaluation of offers; the last quarter of the fiscal year are normally initiated many months earlier.

Secondly, the Office of Education has on occasion held unplanned contracts which it has found meritorious until late in the year to determine whether funds will be available.

Question: Don't these procedures severely limit competition among others who may be qualified consultants?

Answer: OE's competitive award ratio is 81 percent of all new consultant service procurement dollars. The 19 percent awarded noncompetitively is subjected to stringent documentation and review procedures. OE sole source procedures dictate documentation and review of all proposed noncompetitive procurements. Those over $100,000 are presented to the Noncompetitive Review Board of which the Executive Deputy Commissioner for Resources and Operations is the Chairman, and the Director of the Grant and Procurement Management Division a voting member.

Question: Why don't you fund more consultant contracts through competitive Requests for Proposals?

Answer: OE is attempting to improve its FY 78 competitive award ratio even though it already exceeds the overall Departmental average. Those consultant service contracts funded noncompetitively are subject to documentation and review by the OE Contracting Officer, the Grant and Procurement Management Division Director, and for procurements over $100,000 the Noncompetitive Procurement Review Board chaired by the Executive Deputy Commissioner for Resources and Operations. In addition, all noncompetitive consultant service contracts valued in excess of $25,000 are reviewed by the Office of the Assistant Secretary for Education. OE expects that it will fund more consultant contracts through competitive procedures in FY 79 than in FY 78.

Question:

For FY 1978, the National Institute of Education reported only 2 consultant contracts totaling $1.3 million. How was it determined that these were the only contracts which involved consultant services?

Answer:

The two consultant service contracts reported by the National Institute of Education in FY 78 were identified by the Institute staff responsible for submission of consultant service reports to the department.

The two consultant service service contracts reported by NIE went to Pacific Consultants and the National Institute for Community Develpment for conference management services. Both contracts had the title "Overall Conference Planning and Management Services." The process of identifying what constitutes consultant services begins in the budget process. NIE staff review all programmatic projects using the HEW General Administration Manual Chapter 8-Section (GAM 8-15) definition of consultant services. During this process, NIE staff identified the two conference management proposals as falling under the GAM 8-15 definition of consultant services.

The GAM 8-15 Chapter sets forth instructions as to what constitutes consultant services as well as a list of excluded functions. The relevant portions of GAM 8-15 are attached.

Under Section 8A, conference management is listed as a consultant function:

CHAPTER 8-15
8 -- Management and Organization
CONSULTANT SERVICES

8-15-00 Purpose
10 Scope
20 Definition of Consultant Services
30 Policies
40 Acquisition and Management of Consultant Services
50 Contract Modifications
60 Acquisition and Management of Consultant Services Obtained Through Purchase Order
70 Implementation

Exhibits

X8-15-1 Consultant Services Exclusions
2 Consultant Services Budget Instructions
3 Consultant Services Plan
4 Request for Consultant Services
5 Assessment of Consultant Services

8-15-00 PURPOSE

This chapter establishes the policies and procedures applicable to the acquisition, management, and control of consultant services.

8-15-10 SCOPE

A. The policies apply to consultant services as defined in Section 8-15-20.

B. Consultant services excluded from the requirements of this Chapter are listed in Exhibit X8-15-1.

C. Except for the reporting requirements in Exhibits X8-15-2 and 3, the policies do not apply to employment of experts and consultants covered in the Federal Personnel Manual, Chapter 304.

8-15-20 DEFINITION OF CONSULTANT SERVICES

Consultant services are those services which are intended to assist, advise, or render an opinion and are performed by individuals, firms, or institutions which have exceptional qualifications of skill, experience, or education. Such services:

- include examination, survey, study, analysis, review, evaluation, technical assistance or reporting; and
- have as their purpose the improvement in or evaluation of effectiveness, efficiency, or economy of organizations, management, systems, processes, performance standards, procedures, space or equipment layout, programs, or program operations.

Consultant services falling under the above definition and to which these policies, criteria, management control processes and reporting requirements apply fall into four broad categories irrespective of whether they are purchased by salary and expenses (S&E) or program funds:

A. Services which support or apply to internal operations of staff offices or operating agencies of the Department. Such services would include, but not be limited to, analysis and evaluation of organizations, planning, management, functions, and processes; technical and training assistance; conference management; data systems development; and development of information materials.

B. Services which are in direct support, or apply to, the planning, management and operations of external organizations funded by the Department. Such services include technical and training assistance; audit and management reviews of program funded organizations; and audits of providers of services.

C. Services in connection with surveys, to include design of survey forms, conduct of survey, data preparation and processing, and data analysis. (Surveys not included under this definition are discussed in Exhibit X8-15-1.)

D. Services in performing program evaluation studies. Program evaluation studies are those which seek to formally assess existing federal policies or programs (or their components). Such services are performed to reach conclusions concerning program performance, with respect either to program objectives or other significant intended or unintended effects, in order to assist future policy decisions. Types of evaluations include studies of program impact, effectiveness, efficiency, or strategy, as well as support studies to develop new methodology or to develop data to be used in subsequent evaluations.

The consultant services definition should be interpreted in the broadest sense. Accordingly, unless a service is excluded (see Exhibit X8-15-1) it should be considered a consultant service. Requests with supporting rationale for additional exclusions should be directed to the Assistant Secretary for Management and Budget (ASMB).

8-15-30 POLICIES - CONDITIONS PERMITTING AND EXCLUDING THE USE OF CONSULTANT CONTRACTS

A. The Department permits the use of consultant services:

- when work that must be accomplished is critical to the planning, development, operation or evaluation of a departmental program; where such work cannot be accomplished by agency, HEW or other Federal employees /1; and the service is normally and economically available from the private sector; or

- when the work is mandated by law to be performed by a consultant.

B. The Department prohibits the use of consultant services:

/1 Other Federal employees are available on a project basis from the National Bureau of Standards, the Federal ADP Simulation Center, the National Archives and Records Service and other like organizations.

- when the work is making departmental policy decisions or performing departmental management functions which should be retained directly by agency officials. The Secretary reserves the right to approve the use of consultant services for policy making.

- when the consultant arrangement is used as a device to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

- when the work is personal services which must be performed by departmental employees.

- when a project officer is not available who will have sufficient time for adequate work statement development and monitoring of the project after contract award.

EXCLUSIONS

The following are not considered consultant services:

1. Basic research, applied research and development (as defined by the National Science Foundation) including clinical, biomedical, and behavioral projects, and contracts needed to directly support these projects. In addition, surveys conducted in direct support of basic research, applied research, and development projects. However, this does not mean that every project of an agency conducting clinicial, biomedical or behavioral research is excluded; for example, evaluations of research projects and other consultant services are not excluded; and projects that combine limited research and consultant services are not excluded.

2. Specific program functions established by statute to be performed by a consultant. In addition the following operations and program functions are excluded:

   - Operation of national clearinghouses.

   - Operation of national program reporting systems that are required by statute to be performed by a consultant.

   - Operation of professional standards review organizations.

   - Operation of drug abuse centers.

   - Operation of day care centers.

   - Head Start career development and assistance to Head Start grantees.

   - Intermediaries employed in support of Medicare and Medicaid.

3. Services that are excluded include:

   - Testing services performed by FDA and CDC in support of regulatory functions.

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- Services performed in support of the Indian Self Determination Act PL 93-638.

- Services performed by national commissions, advisory committees or groups, review panels, boards, and committees.

- Services performed by physicians, attorneys, and similar professional, para-professionals, or experts in the individual disability or other claimant determination; or such services rendered in support of grievances, arbitrations, appeals, hearings, adjudication of direct dealing Medicare claims and for medical reconsideration of Medicare beneficiary claims.

- Services provided by field readers.

- Services provided by subcontractors or consultants under a prime contract.

- Services provided by State and local government or their designated agents.

- Services and technical assistance to grantees or to State and local governments or their designated agents.

- Services provided by other Federal agencies, or other HEW activities.

- Services obtained through grants.

4. Administrative support services that are excluded include:

    - Direct health services and employee health services.

    - Housekeeping and maintenance services.

    - Architect and engineering services related to construction.

    - Transcription services, captioned film and news clipping services.

    - Microfilm and copying services and mailing and distribution services.

    - Routine literature searching, indexing and abstracting services.

    - Data reduction and verification services (keypunch, key to tape, or disk, etc.).

    - Data processing services (rental of computer equipment time, and the management and operation of a facility, and rental of "off the shelf" software packages).

    - Programming services that do not require analysis.

    - Communications services.

Question:

How was the National Institute for Community Development selected for this contract?

Answer:

Recognizing that the National Institute of Education had a continuing need for specialized services in conference planning and management, NIE solicited the cooperation of teh Small Business Administration (SBA) in selecting an 8A minority firm to conduct these tasks. With SBA approval, NIE issued an 8A competitive solicitation of three firms with capabilities to meet the NIE requirements for conference planning and management services. the National Institute for Community Development was one of two minority firms selected to provide these services to the Institute.

Question:

Who attended the conferences?

Answer:

A variety of individuals from the education community, including parents and teachers, Federal, State, and local educational policymakers, representatives of major private sector interest groups, and education researchers attendded NIE's conferences. The composition of participants convened for a particular conference is dependent upon the subject matter under consideration. Let me give you several examples:

* The meeting entitled "Research on Education and Work" involved representatives from: the AFL-CIO; Georgia Office of Planning and Budget; teh Universities of Michigan and Minnesota; National Advisory Commission for Manpower Policy; Mott Foundation; and the Colorado Department of Education.

* The conference on the Congressionally-mandated Vocational Education Study included participants from; 16 academic institutions; seven representatives of state vocational programs; members of the International Brotherhood of Electrical Workers and the International ladies' Garments Workers Union; the NAACP; and Federal program managers from the vocational education area.

* The meeting entitled "The Establishment of an R&D Center on Bilingual Education" included participants from: 16 academic institutions, with bicultural/bilingual departments such as those in Texas, San Diego, Miami, Berkeley, Pennsylvania, and New York; state representatives from bureaus of multilingual education;

representatives of private research firms involved in bilingual research and material development; and six experts in the field.

* The conference on "Research on New Opportunities in Testing" included the following participants: 14 representatives of institutions of higher education with related departments; 5 panel members from state-related divisions; 10 educational industry representatives; several educational trade association members; and some experts in the field of testing.

Question:

How long do you intend to keep extending this contract? (NICD)

Answer:

In February of 1979, the National Institute of Education advised the Small Business Administration (SBA) that NIE is planning to award two 8A contracts for conference planning and management services. Upon SBA certification of six minority 8A and women-owned business enterprises that had shown a personal interest in NIE's need for conference management services, NIE solicited proposals from those firms. Two new awards should occur in June 1979. However, NICD is not precluded from a further award.

Question:

What specific improvements in education have resulted from these conferences?

Answer:

A major concern of the National Institute of Education is how research findings and related information reach the educational practitioners. the institute regards sponsoring conferences as its means of interaction with local and state education officials and others in the educational community.

There are several primary purposes for which NIE sponsors conferences:

* to disseminate research findings to school personnel and other educational practitioners;

* to develop a research agenda for NIE and assure that the Institute's programs are responsive to practitioner needs;

* to exchange information between local and state decision-makers, educational practitioners and researchers

and;

* to facilitate peer review of grant applications.

In the last few years, NIE has sponsored several conferences which resulted in recommendations for the improvement of practice in teaching as well as contributed to national debates on educational issues. For example:

* Conferences regarding desegregation have provided a forum through which the results of research by social scientists have been shared with members of the judicial system. These meetings are facilitating practical application of research findings into decision-making and implementation in the real world.

* Although both the Congress and the Institute have decided that the Federal Government should not be involved in the development or encouragement of a national competency testing program, the Institute has continued its research into the relevancy, appropriateness, and use of tests in the educational system. The Institute has sponsored several conferences which have informed education policymakers, parents, and teachers in the field on current knowledge regarding the value, limitations, and uses of tests.

OE decided to award a number of small contracts to potential sponsors for purposes of documenting different model approaches, their effectiveness, their costs, and a number of issues directly related to those areas which had caused methodological problems in previous Follow Through research. These issues included problems of model implementation in schools, measurement of educational outcomes, school site selection and management, and the appropriateness of control or comparison groups of students not receiving special services. OE believed that model developers with well developed educational models would have dealt with many of these issues in the course of developing and implementing their approach and would be a valuable source for planning information. Since model developers differ in their instructional approaches and methods of problem resolution, multiple viewpoints were desirable. The information acquired from the model developers and perhaps the models themselves will be used in new Follow Through experiments.

Question:

How were these six consultants selected?

Answer:

A competitive procurement was undertaken to solicit a number of model developers and to find a limited number of such applicants who have demonstrated that they have well developed, potentially effective programs. Standard competitive contracting procedures were applied to the twelve proposals which were received. Each proposal was scored and awards were made to the six proposals receiving the highest scores.

Question:

What were the results of these consultant activities?

Answer:

The tasks to be performed as a result of these contracts consisted primarily of preparing two reports described below and participation in meetings to discuss these issues and the work in progress. The reports are due this spring and summer. The first report addresses general research issues that would permeate new Follow Through research; such issues included measurement of educational outcomes, measurement of the degree of model implementation at participating schools, and site selection and management. The second report addresses issues such as resource and cost requirements for proposed models, staff training requirements, effectiveness and model documentation, and dissemination. Discussion is to be couched in terms of the implications for starting model implementation in new school sites, withdrawing sponsorship from old sites, and attempting to institutionalize the model approach in a site in the absence of active sponsorship. Results of both reports will be discussed at a meeting of the contractors and OE personnel late this summer as planning continues for FY 80 Follow Through research.

Labor/HEW Subcommittee on Appriations

Question:

When do you determine that a program has been evaluated enough? According to the Staff, since September 1976, you have contracted for 19 studies totaling $4.7 million to evaluate implementation of the Education for All Handicapped Children Act of 1975. Why do you need so many evaluations of one program?

Answer:

Six general questions are being examined in order to evaluate the Education for All Handicapped Children Act of 1975:

(1) Are the Intended Beneficiaries being served?
(2) In what settings are beneficiaries being served?
(3) What services are being provided?
(4) What administrative mechanisms are in place?
(5) What are the consequences of implementing the Act?
(6) To what extent is the intent of the Act being met?

Rather than having a single large study to gather information about these questions, 19 smaller studies have been commissioned. The large number is the result of the problems often encountered by a single large study. We feel this approach allows more careful budget control and a greater opportunity to make certain all topics are examined.

Labor/HEW Subcommittee on Appropriations

Question:

How long do you plan to continue evaluating this program through consultant contracts?

Answer:

The evaluation was initiated by the Congress in Section 618, EHA. Findings of these evaluation efforts are reported in teh required Annual Evaluation report. When the provisions of the Act are fully implemented and when the Bureau can insure that state implementation of provision are complete, the evaluation activities will be reduced to an occasional special study and reports of state-collected data.

Labor/HEW Subcommittee on Appropriations

Question:

Why does it have to be done through consultant contracts?

Answer:

Contracted studies and staff studies are included in annual reports to the Congress. Contracted studies are used where: (1) expertise or depth of staff needed to do the study goes beyond available Bureau resources; (2) a third party assessment is necessary to assure a reasonbly critical review of Bureau work; (3) the amount of travel and personnel required goes beyond the resources of the Bureau.

Question:

Why wasn't the Bureau of Education for the Handicapped able to carry out this analysis and evaluation inhouse?

Answer:

Bureau staff conduct many short term, small studies. The reason for contracting these studies out were first, the families studied must be selected from various areas of the country. The travel and expenses for a centrally located staff would exceed the staff budget. Second, the study requires frank information about the success or failures in implementing the Act. The answers to a third party may be more candid than the answers given by federal personnel working for the program.

The Congress asked that the Bureau provide an annual report on the effectiveness of the Act. The first Annual Report was delivered on January 23, 1979. All data collected by contractors and studies done by Bureau staff were reported. The Congress required an annual report of evaluation findings (Sec. 618.). We expect these evaluations to provide new and needed information until all revisions of the Act are fully implemented.

A great deal of the data included in the report is gathered by Bureau staff. Contracts are used where either a long time frame, unusual expertise or impartial observation is necessary.

As noted above, the use of contracted studies will end when teh Congress is satisfied that all the provisions are being successfully implemented by the State.

Teacher Corps

Questions:

The Committee has learned that the Teacher Corps Program is planning to spend about $10.6 million of its fiscal 1979 appropriation of $37.5 million on consultant contracts.

Why does the Teacher Corps need to spend nearly one-third of its budget for contracted services?

What, specifically, will be funded with the $10.5 million?

What impact will this have upon colleges and school districts that are currently receiving funds?

How much was spent on contracts by the Teacher Corps last year?

Answer:

Please see attachment.

Teacher Corps is not spending $10.6 million of the FY 79 appropriation of $37.5 million on consultant contracts. The Administration has determined that $1.03 million of our program support contracts fit the definition of consultant contracts.

This is 3% of the appropriation. These contracts are the Cost Benefit Analysis, Dissemination, Research Adaptation Documentation Cluster and Evaluation.

The Teacher Corps will spend $8.4 million of its FY 79 appropriation on program support contracts. this figure represents 22% of the Teacher Corps budget. Until the Education Amendments of 1976, the law only authorized technical assistance to local education agencies and institutions of higher education for recruitment, selection and enrollment of corpsmembers. With the new amendments such assistance was authorized for all project activities, to include State education agencies and further expanded to include planning, monitoring, documenting, dissemination and evaluation. The new language increased the number of technical services that could be made available or provided to funded institutions. The Congress even included provisions for the Teacher Corps to provided these expanded services to all parts under Title V which includes Teacher Centers. Language in the Senate Committee appropriation bill, 1978 Report further directed inclusion of the provisions from the Education Amendments of 1976 stating that:

> "In addition to continuing earlier projects under Cycle 12, fiscal year 1978 funds will be used to begin a new series of cooperative site ... including the extension of the project period from two to five years, the inclusion of school principals, and other educational personnel in the training program and provision for an elected parent and community council in each project to assist in planning, operating and evaluating project activities. Increased emphasis will be placed on documentation and dissemination in order to share knowledge about the most useful Teacher Corps products and practices with other projects and with the educational communi-community."

The Education Amendments of 1978 sustained the Senate's position that a four year spending ceiling on the Teacher Corps needed to be lifted.

The Congress recognized that the maintenance of a large number of new starts would require higher appropriations because of the cumulative effect of up to five years of project running at the same time. Therefore the Teacher Corps authorization was increased from $37.5 million to $75 million in FY 78 and $100 million in FY 79.

The annual funding pattern for Teacher Corps five year projects, as published in the regulations is $150,000 (1st year), $300,000 (2nd), $300,000 (3rd), $200,000 (4th) and $150,000 (5th). Therefore, the cumulative effect of maintaining a constant number of new starts is not a linear one. However, the $37.5 million appropriation was not increased in FY 78, the first year of the new five year program. Since first year project costs in the new program were lower ($150,000) than previous average project costs ($245,000), it was possible to start 81 five year projects, an increase of 23% over the number of projects completing the second year 11th cycle, in FY 78 at a cost of $12.3 million and fund the final year of the 58 two year 12th cycle projects at $13.5 million.

The chart belwo (p.3) illustrates why the decision was made to limit the funding of additional projects. The Administration in a period of austerity made the decision to request $37.5 million for FY 80. FY 80 is the critical year for teh new five year program in that there will be no two year projects ending from which funds could be retrieved for new starts as had been the case in the first 12 years of the program. These funds must be used to continue the maintenance and support of the five year programs begun in fiscal years 78 and 79.

As can be seen in this illustration and from the distribution of funds as outlined in the published regulations, the maintenance of the 130 existing projects in their second and third years will require $37.4 million.

Provisions under the Education Amendments of 1976 call for expanded technical assistance, monitoring, planning, documentation, dissemination and evaluation. Assuming a fiscal year 80 appropriation at the $37.5 million level, funds for these new provisions had to be budgeted in FY 78 and FY 79. A further assumption was made that the majority of the products from these activities would be ready and available for project use in FY 80 and FY 81. Most contracts were for a two year period with the proviso that should the Teacher Corps FY appropriation be increased, the operational third year was available at the option of the Federal Government, if additional work were needed to complete all RFP requirements. An exception was made by the Administration for the major evaluation and the exceptional child component contractors. These were funded in FY 78 for 36 months and 30 months respectively. All others were to be negotiated from year to year depending upon the appropriation level and the availability of funds. Therefore, in FY 78, $11.7 million or 31% of the funds were available for project monitoring, planning, technical assistance, documentation, dissemination and evaluation to carry out the demonstration responsibilities of the substantive changes in the new Teacher Corps.

The selection of contracts as the funding instrument for these activities was made by the OE Grants and Contracts Office in accordance

Question:

What, specifically, will be funded with the 10.6 million?

Answer:

In FY 79 Teacher Corps will spend approximately $8.4 million of its budget for contractual services. The consultant contracts will provide broader project assistance over time through the development, testing and installation of models for: 1) identifying products and processes which have potential for demonstrating and disseminating successful project elements; and 2) analysis and reporting to be used by projects in determining their net economic and social benefits as a result of direct federal support and indirect support of the local IHE, LEA and community. The remaining funds will be used to continue services begun in FY 78 providing direct assistance to state departments of education.

Consistent with 1975 legislation designating Teacher Corps as a demonstration program, the Education Amendments of 1976 authorized Teacher Corpos to use program funds for the procurement of technical assistance for documentation, dissemination and evaluation activities. In response to the new mandate and prior to its first 5-year funding cycle, Teacher Corpos convened Task Forces comprised of Teacher Corps constituents, leading educators and public policy-makers at the local, state and federal levels. These Task Forces were designed to solicit responses and advice from the field to assist in planning for the implementation of the new legislative mandate. As a result of these efforts, contracted services were designed to address these mandated activities. These contracts perform such services to projects as: 1) site specific technical assistance to projects in areas of organization management and planning and assistance in designing and implementing key program features in the areas of education that is multicultural, diagnostic/prescriptive teaching, and collaborative governance; 2) direct technical assistance to projects through regional centers in the recruitment, selection and enrollment of preservice interns; in electing and operating the community council; and in developing and implementing community-based education; 3) operation of regionally based networks of local projects to develop and implement strategies for improving information-sharing among projects and providing technical assistance related to solving common problems and sharing effective practices, useful materials, and improved management and evaluation techniques; and 4) developmental training activities on a national scale designed to provide specific training to individuals who comprise role groups in local projects charged with implementing each project at its local site. This training is in areas determined to be of critical importance by the program and is based on assessed needs of the project personnel to be served.

Question:

What impact will this have upon colleges and school districts that are currently receiving funds?

Answer:

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The impact on children from low-income families from both the support services activities and the project grants themselves will not be determinable until much later in the 5-year program life.

The impact on colleges and school districts will be determined upon completion of the longitudinal evaluation of Teacher Corps contracted by the Office of Evaluation and dissemination.

Decisions relative these support services contracts are based upon findings of the 1973 Rand Report, Federal Programs Supporting Educational Change. Rand's findings indicate the need for relevant technical assistance to aid project success. "What is needed", said Rand, "is for projects to be buttressed by systemic or institutional level assistance." The study also indicated that educational performance could be improved if "more attention were paid to all stages of the local building process; if school districts were given adaptive implemenation assistance; and if the capacity of school districts to manage were enhanced." Further recommendations urged that projects be supported through three stages; mobilization; implementation; and institutionalization. Teacher Corps support services contracts are specifically designed to meet these needs for participating project schools and colleges, in order to maximize the possibility of success and long-term impact in institutionally changing the manner in which they deliver service to their clients.

Question:

How much was spent on contracts by the Teacher Corps last year?

Answer:

In FY 1978 Teacher Corps spen $11.7 million for contracted services. Of this amount, approximately $9.5 million was used primarily to initate those contracts which are ongoing in FY 1979 and described above. The remaining $2.2 million was spent for the contract awarded by the Office of Evaluation and Dissemination for the longitudinal evaluation of Teacher Corps.

Alcohol and Drug Abuse Education Contract with the BRX Firm

Q: Could you give us some qpecific background on this contract and what happened to it?

A: The contractor was to provide the following services:

1) Conduct training for teachers in the field of Alcohol and Drug Abuse. This was the major portion of work to be performed.

2) Provide training for new trainers in the field of Alcohol and Drug Abuse.

3) Provide eighty-five (85) days of technical assistance to five (5) U.S.O.E. Drug Abuse Training Centers and assistance to U.S.O.E. program personnel. This work should not have been completed under the contract. Technical Assistance should be performed by U.S.O.E. program personnel.

4) Conducting workshops in various state education agencies attempting to promote and consequently institutionalize the Alcohol and Drug Abuse Education Program objectives.

5) To conduct follow-up studies of graduates and teachers of six (6) U.S.O.E. supported preservice demonstration projects using a curriculum developed under a research effort supported by the U.S.O.E.

6) An assessment of training centers and the National Action Committee, e.g., what has been accomplished? What have they learned? Problems to be identified.

7) Assist State Education Agencies (SEAs) in providing leadership in substance abuse with the hope of an eventual notionwide of SEAs to prmote substance abuse.

This proposed contract was originally assigned to a grant specialist because of the heavy end of fiscal year workload and the critical shortage of qualified contracting personnel. A sconsequest of this action

Q: Late last year, there was some publicity concerning an Office of Education contract with BRX Institute. Among the allegations - BRX Institute misrepresented itself as a nonprofit organization when it, in fact, had no such exemption; the scope of work in the contract was modified without knowledge of the contract officer; and the existence of serious conflicts of interest. In addition, it has been alleged that the consultant was using part of his consultant contract to pay for the rent of his personal apartment. Could you describe the nature of the contract and further describe the alleged improprieties?

A: The contract with BRX Institute provided consultants and conference support services to the Alcohol and Drug Abuse Education Program (ADAEP) and five regional resource centers funded by ADAEP. The contract amount was $208,000 for the period October 1, 1977 to November 30, 1978.

The contract essentially continued services previously provided under the noncompetitive grant to the University of Rochester (UR) between 1970 and 1977. The current Director of ADAEP, Dr. Helen Nowlis, was UR's first project director of the grant before she accepted her position with the Office of Education in 1971. Dr. Larry Alan Bear replaced her as project director.

During 1972, Joel Orelrod worked for ADAEP for one year under an industry exchange program. After leaving ADAEP, he established his own corporation, BRX, Inc. which later won a competitively awarded contract from ADAEP in a joint venture with a subcontractor to the UR grant. BRX, Inc. also recieved two contracts from the National Institute on Drug Abuse (NIDA) in 1975 and 1977. Dr. Bear was the project director for these contracts and also a Vice-President of BRX, Inc.

In 1977 when the UR grant expired, OE issued a request for proposals to continue the project through a competitive contract. Dr. Larry Bear submitted a proposal under the corporate name, BRX Institute. BRX Institue was represented to be an existing nonprofit organization having 18 employees. In actuality, BRX Institute had not received nonprofit status and did not have any employees. Nonprofit status, however, was not a requirement of the Request for Proposal. Soon after BRX Institute was awarded the contract, BRX Institute was acquired by the Academy for Educational Development, an established nonprofit organization.

During an audit of contracts awarded to BRX, Inc. by the National Institute on Drug Abuse, our auditors noted the discrepancies in BRX Institute's representations and referred the matters to internal audit for further review.

After reviewing the contract file, we determined that there were a number of deficiencies involved in the award and administration of the contract. Some of these were:

- -- The services being provided were essentially personal services which are required to be obtained by appointment rather than contract.
- -- Certain aspects of the slection process gave the substantial appearance of favoritism to BRX Institute. One of the technical reviewers was identified as a possible consultant in the BRX proposal. Also, significant negative criticism of BRX was overlooked by the ADAEP project officer, including the program with its corporate status.
- -- Substantial changes were made in the work originally contemplated. The promised level-of-effort, which was a factor in the award decision, was not provided and the contracting office was not advised on the changes.
- -- Required management approvals had not been obtained and documentation in the contract file was seriously deficient.

In September 1978, we issued a priority audit memorandum to the Commissioner, OE, advising him of these problems with the contract which was up for renewal. In response to this memorandum, the Commissioner advised us that the contract would not be renewed.

Questions concerning conflict-of-interest and misrepresentation were referred to the Office of Investigations in December 1978. With regard to the allegation that part of the contract was used to pay rent for a personal apartment, this appears to be a reference to our audit of NIDA contracts with BRX, Inc. BRX, Inc. operated from various locations, one of which was an office in New York City in the same building where Dr. Bear resided. The office suite was rented from Dr. Bear's wife and was used as both an office and a lodging facility for visiting BRX staff. The cost of this space was included in the indirect cost rate applied to the NIDA contract, but not to the OE contract.

A draft report dealing with administrative deficiencies noted during our review of the contract will be issued to OE for comment in the near future.

Q: When did your office begin investigating the BRX contract?

A: Audit referred questions concerning conflict-of-interest and misrepresentation to Investigations in December 1978, and an investigation was initiated in January 1979.

Q: Who brought the matter to your attention?

A: Allegations concerning mismanagement in the National Institute on Drug Abuse were contained in a newspaper article by Mr. Jack Anderson. As a result of that article, HEW Audit began to examine NIDA contract managemenr more closely. During one audit by Audit regional staff involving NIDA contracts to BRX, Inc. certain discrepancies were noted. The matter was then referred to HEW Audit's internal audit staff for further review.

Q: What is the current status of your audit/investigation?

A: The investigation is ongoing at this time.

Question: Describe the Office's relationship with the System Development Corporation?

Answer: SDC is a very competent firm which has performed well for OE in the past. The relationship between OE and SDC is at all times consistent with applicable procurement regulations.

Question: How does one consulting firm get so many contracts with one agency?

Answer: All of OE's largest contracts were issued competitively. As certain large firms win competitions they amass expertise which may give them a competitive advantage in future procurement activities.

Question: How many former Office of Education employees are employed by the corporation?

Answer: Department procurement procedures require an offeror to identify only those former professional employees of OE which are to be employed on a contract. The offeror need not report all former employees presently employed in any capacity by the firm. Therefore, OE does not know if any former employees now work for SDC.

Question: How many other consulting firms have a similar relationship with the Office of Education?

Answer: Other firms with multiple large contracts with the Office of Education in FY 78 were:

ABT Associates (4 contracts) $1 million

Applied Management Sciences (5 contracts) $3.2 million

Research Triangle (3 contracts) $1.1 million

Question: Should HEW and its agencies be required to report top ten consultants each year?

Answer: We would not object to such a report.

Question: During its study, the staff noted a number of contracts which may have been for consultant services which were not reported to this Committee. What procedures do you have to make certain that consultant contracts are properly classified as such and reported to this Committee.

Answer: The procedures for identification of consultant services contracts is an integral part of the Education Division's budget and planning process. Staff in the Division review program plans and identifies projects which satisfy the HEW General Administration Manual 8-15 definition of consultant services. That compilation is submitted to HEW for review, approval and ceiling allocation.

Additionally, the Office of Education has established a staff responsible in part for reviewing determinations concerning classification of consultant service projects. This staff reviewed all FY 1978 procurements prior to preparing the final semi-annual report for that year.

QUESTIONS SUBMITTED BY SENATOR BAYH

Question: In the Department of Health, Education, and Welfare's budget message for FY 1980, it is mentioned that the Department, in complying with the Leach amendment as well as the President's anti-inflation policy, will reduce full-time staff positions by 2,848. To what extent is this being offset by the use of consultants?

Answer: There is no way to determine the answer to the question. The resuction of staff has been applied across the entire HEW organization structure but the direct effects of this or the replacement with consultants cannot be measured. We intend to continue the restraints on use of outside help. This will prevent, to a large degree, any attempts to offset position cuts through consultant services contracts.

We would like to point out that the Leach amendment covers appointive consultants under the ceiling, as "other than full-time employees."

Question: Does the Department have a uniform policy regarding the appointment of consultants or is it left to the program directors to decide?

Answer: The Department, in Chapter 304-1 of its Personnel Manual, provides general policies regarding appointment of consultants. This guidance essentially restates civil service criteria which address:

- o the Department's authority to employ a consultant for the specific task.
- o restrictions on dual employment, dual pay, conflict of interest, and duration of employment.
- o whether the duties to be performed are appropriate for an expert or consultant, as opposed to a permanent employee.
- o whether the consultant has the minimum technical qualifications necessary to perform the duties of the job at the rate of reimbursement to be paid.

Acting within these general criteria, each principal operating component and agency may select and appoint individual appointive consultants.

Question: You said that 39 percent of total consultant procurement costs occurred during the 4th quarter. That is 39 percent of total contract costs. Isn't this really a smokescreen to hide consultant costs? Consultant contracts are small compared to other contracts. If we look only at consultant contracts, isn't it true that about 90 percent of these are issued during the 4th quarter?

Answer: The 39 percent does refer to total contract costs and we use it in our report because it was the only data available to us at that time. We had no intention of misleading the committee and subsequently, we submitted for the record data on consultant contract costs alone broken down by quarters. The fourth quarter figure in FY 78 for consultant contracts for the entire department is 66 percent.

Question: Although HEW claims it can't hire up to the health ceilings provided by Congress in P.L. 95-480, a recent report by our Committee's Investigations Staff shows that the Department isn't shy about hiring additional people when it suits HEW's purposes, even if it means putting them on in the guise of consultants.

For example, the Investigations Staff found 11 cases in the Office of the Secretary where so-called outside "experts" were used to fill what amounts to continuing management positions. In other cases consultants with temporary appointments were allowed to work longer than one year in violation of Civil Service Regulations. Other findings of the Investigations Staff: The Office of the Secretary routinely hired individuals as "experts" while processing them for Schedule C appointments; an individual who did not appear to be qualified was hired as an "expert" and in one year received a salary increase from $14,097 to $30,750; and in another case the staff found an "expert" who earned $53,808 in fiscal 1978 although the law limits experts and consultants to annual salaries of $47,500.

What is your comment on this?

Answer: Your Investigative Staff reported a number of problems with the employment of experts and consulants in the Office of the Secretary. The Investigative Staff also detailed in their report the measures we have taken to clear up these problems. One point I would like to emphasize is that these problems largely stem from simple errors and genuine differences in interpretation rather than efforts to subvert civil service laws and regulations. For example, the problem of consultants performing continuing functions is one which typically arises when projects or programs which initially appear to be temporary in character later evolve into continuing functions. The two or three cases of consultants working longer than a year were, as the Investigative Staff noted, simple matters of oversight. I am advised that our use of the consultant employment authority an an interim step in the non-career appointment process is not a violation of civil service regulations. Finally, as indicated in the Investigative Staff Report, our actions in the case of the expert who was paid in excess of the salary limit were guided by and consistent with rulings of the Comptroller General.

QUESTIONS SUBMITTED BY SENATOR SCHWEIKER

THE AVAILABILITY OF SUFFICIENT FUNDS

Question: Was any money saved by reducing the health positions through the imposition of a ceiling? If so, what is being done with the money?

Answer: Approximately $12.8 million has been saved as a result of compliance with the employment ceiling. These savings have been used to offset a portion of the October 1978 pay raise.

POSITION LEVELS

Question: How many health positions are provided in the fiscal 1979 Labor-HEW statute? How does this compare with the health employment level at the end of fiscal 1978 and with your end-of-year employment ceilings for fiscal 1979? What the source of your end-of-year employment ceiling for fiscal 1979--OMB? Did HEW have any input in this process?

Answer: The fiscal year 1979 Labor-HEW Appropriations Act specifically included 28,222 positions. Since no change to the President's request was made by either house, no specific mention of positions was made for the Fogarty International Center, the Alcohol, Drug Abuse and Mental Health Administration or Saint Elizabeth's Hospital. The effect of the Appropriations Act was to provide 34,463 positions to the Public Health Service. The September 30, 1978 employment level was 32,795. Currently, PHS' ceiling assigned to Labor-HEW activities is 33,175. The end-of-year ceiling was provided to PHS by the Secretary.

GAO OPINION

Question: On April 5, 1978, the Comptroller General issued an opinion making the following statement on our health positions:

> "If an appropriation act or other statute specified staffing levels and the funding was made available therefore in a line item, the imposition of a hiring ceiling might well result in impoundments, assuming that the excess funds expected to be realized by limiting hiring could not be reprogrammed or transferred to other uses."

We've met the condition that this opinion requires. We have "specified staffing levels and the funds was made available therefore in a line item. . ." Why then doesn't your action constitute an impoundment? Since you are not filling all of the positions as required by the law, why haven't you sent up rescissions or reprogrammings to cover this new situation? This is required by the statement of the managers in the FY 79 Labor-HEW conference report.

Answer: The Public Health Service has prepared full documentation of the reprogrammings required as a result of reduced employment ceiling and subitted the documentation for inclusion in a formal reprogramming request which we will submit to the Committee in the near future.

THE RATIONALE AND THE PROCESS

Question: What rationale was used to determine the health position ceilings for fiscal 1979? Were the individual health agencies and NIH institutes consulted in determining appropriate and practical position levels for the present fiscal year?

Answer: The distribution of employment ceiling between the PHS agencies was made based on the following criteria:

- On duty employment as of November 30, 1978.
- New positions added by the Appropriations Act(1979)
- Reduction of positions included in the 1980 President's budget
- Departmental earmarks for the National Health Servies Corps and Patient Care activities.

The PHS agencies were advised of the criteria which was used to allocate the ceiling. Each agency head has the complete discretion to allocate the ceiling within his own agency.

SPECIFIC SITUATIONS

Question: I note that you project an end-of-year ceiling of 996 against an authorized position level of 1,275 for the Health Resources Administration. This ceiling is 279 below the congressional ceiling and that as of February 28 you had 1,207 people on board. How are you going to reach 996--through a reduction in force?

Answer: PHS allocated to the Health Resources Administration (HRA) an employment ceiling equal to the 1980 budgeted positions requested by the Administration. The ceiling was allocated in such a way that HRA would begin to reduce its employment through attrition. It was hoped that such action early in fiscal year 1979 would help avoid the need for a reduction in force in HRA in 1980. However, attrition has not produced the desired results. PHS has recently reallocated its employment ceiling and provided HRA a 1979 end-of-year ceiling of 1,187.

THE AVAILABILITY OF SUFFICIENT FUNDS

Question: Was there sufficient money in the FY 79 Labor-HEW bill as it emerged from conference to cover the 28,222 Public Health Service positions provided, including the additional positions Congress added? Was any money saved by reducing the health positions through the imposition of a ceiling? If so, what is being done with the money?

Answer: The 1979 Labor-HEW Appropriations Act included 28,222 positions. An additional 6,241 positions were provided by the bill but were not specificially included in the appropriation language. Sufficient funds were provided by the Congress to support a total of 34,463 positions assuming a normal lapse rate of 2 to 3 percent.

The restrictive employment ceiling which has been imposed on PHS has resulted in the savings of approximately $12.8 million in pay costs. These funds have been used to partially offset the costs of the October 1978 pay raise.

WHEN IS A LAW A LAW

Question: The additional health positions Congress provided in fiscal year 1979 were not simply listed in a Committee report--they were put in the Labor-HEW Public Law (P.L. 95-480). This is the law of the land. Do you regard P.L. 95-480 as the law of the land--or as something else? Isn't congressional intent clear on the level of health positions to be provided?

Answer: The Appropriations Act contains specific language authorizing full-time permanent position levels for certain PHS agencies. The position levels as specified in the act have been allocated to the respective health agencies. In the past, these agencies have been allowed to recruit up to their authorized budgeted position levels. Past experience in staffing programs shows that there is always a gap between the number of authorized budgeted positions and the actual number of personnel on duty. Under normal recruitment procedures, the expected employment level has been approximately 97 percent of authorized full-time permanent positions.

In fiscal year 1979, as in past years, the PHS agencies will be operating with employment ceilings below their authorized budgeted positions. However, this year we have set an employment ceiling which will result in an end-of-year employment of approximately 95 percent of budgeted positions. The reason for this 2 percent reduction below the normal rate is to achieve the target established by the Civil Service Reform Act of 1978 which stipulates that total Federal employees be reduced to the September 30, 1977 levels by September 30, 1979, and that level be maintained through September 30, 1981.

Question: Did the Commissioner of Education actually allocate the funds as indicated in the September 8, 1978 memorandum?

Answer: Shown below are all items included in the September memorandum, whether or not the Commissioner approved, and for how much each approval was funded.

Item	Original Estimate	Commissioner's Approval		Final Obligation
		Yes	No	
Region VIII Severance Pay	$ 46,000	X		$ 46,000
Region IX Severance Pay	$ 86,000	X		$ 86,000
Remodeling of the Commissioner's and Executive Deputy Commissioners' offices.	$ 60,000	X		$ 30,310
Supplemental funds for OPA Printing and Films. (This includes $31,600 for reprinting American Education articles on smoking and health, gifted children, teaching reading and consumer action).	$156,600	X		$144,954
Funds required to carry out an OMB Mandated Readership Survey of American Education.	$ 80,000	X		-0-
Purchase of Audio-Visual Equipment for the Horace Mann Learning Center.	$ 25,000	X		-0-
Purchase of Word Processing equipment for OE-wide use.	$131,000	X		$ 73,642
Funds required to support contract for OE Space Planning.	$ 10,000	X		$ 10,000
Funds for Departmental Tap--Planning Requirement Reform Demonstration Project. (This is an outgrowth of the zero-based planning requirements study undertaken in 1977 by the Department).	$ 50,000	X		$ 50,000
Funds required to support the Departmental Tap--NASA Statistics Studies.	$ 25,000	X		$ 25,000
Support for FOCUS: HOPE in response to the Secretary's recent request.	$136,000	X		$136,000
Health Initiative--To serve as a contingency fund for				

Item	Original Estimate	Commissioner's Approval Yes	Commissioner's Approval No	Final Obligation
use in developing a joint initiative with the Public Health Service.	$ 10,000		X	-0-
Education Forum--To contract with one of the Forum organizations to manage meeting in Fiscal Year 1979.	$ 90,000	X		$ 93,077
National Association of Elementary School Principals-To fund a proposal to improve literacy skills for elementary school children.	$100,000		X	-0-
Institute for Development of Educational Activities, Inc.--To support the analysis of data and preparation of major reports on "A Study of Schooling in the United States".	$100,000	X		$ 98,700
Rhode Island Teachers Center Project--To support the development of a model for cooperation between a State educational agency and the AFT and NEA in teacher training programs.	$200,000	X		$298,803
Baltimore Project--To participate with the Department in improving the delivery of social services to a specific geographical area.	$100,000	X	($50,000)	-0-
Support of General Operating Expenses for OPBE. (These funds will be used to cover an over-expenditure for OL of $157,000 and new costs of $150,000).	$307,000		X	-0-
Requests for additional operating funds by Bureaus:				
BEH for printing	$ 5,000	X		$ 5,000
BOAE for travel and equipment	$ 10,000	X		$ 10,000
BSFA for reprogramming	$600,000	X		$600,000
Requests for additional funds by BESE for:				
Support of the six unsolicited proposals listed on Attachment A.	$315,717		X	-0-
Special contract with Rainbow TV minority firm (see Attachment B).	$300,000		X	-0-
Supplemental funds to cover special requests by the				

Item	Original Estimate	Commissioner's Approval Yes	Commissioner's Approval No	Final Obligation
Planning grant from Puerto Rico to develop an Island-wide counseling system designed to meet the unique needs of Puerto Rico.	$ 50,000	X		$ 50,000
Institutional Development Corp. Cities in Schools Arts in General Education.	$ 66,000	X		-0-
Identifying and Validating Practices to Reduce School Violence and Vandalism.	$ 24,990	X		$ 24,990
Office of Career Education for printing and contracts for the development of papers by experts in career education.	$ 50,000		X	-0-
Funds for the Education Community Liaison Office to support the 1979 Training Institute for Chief State School Officers.	$132,338	X		-0-
Requests for additional funds from OPBE for:				
Two studies in Bilingual Education	$1.100,000		X	-0-
A Study of the Sustaining Effects of Compensatory Education on Basic Skills	$1,550,000	X	(Partial Support)	$360,615
Raising the FY 1978 funding level for NDN to its FY 1977 level.	$518,000	X		$422,965

CONCLUSION OF HEARINGS

Senator MAGNUSON. This concludes our hearings.

[Whereupon, at 12:30 p.m., Tuesday, May 22, the hearings were concluded and the subcommittee was recessed to reconvene at the call of the Chair.]

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